

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, January 20, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Page Introduction	Welcome to our new Committee Page, Jaylee Harris, of Burley, Idaho	Chairman Rice
RS28241	Relating to Taxing District Budgets	Chairman Rice

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Rice	Sen Bayer
Vice Chairman Grow	Sen Ricks
Sen Vick	Sen Nye
Sen Lakey	Sen Rabe
Sen Souza	

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, January 20, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 2:59 p.m.

INTRODUCTION OF PAGE: **Chairman Rice** announced the page introduction would be moved to a later time on the agenda.

PASSED THE GAVEL: Chairman Rice passed the gavel to Vice Chairman Grow.

RS 28241 **Relating to Taxing District Budgets.** **Chairman Rice** presented the proposed legislation, stating it had been recommended by the interim Property Taxes and Revenue Expenditures Committee. The legislation changes the cap in the growth of property tax budgets, proposing a cap of 4 percent, with a minimum of 3 percent, if the consumer price index plus new construction do not add up to more than 3 percent. The proposed legislation also allows the taxing district to exceed that growth cap by holding an election.

DISCUSSION: **Senator Nye** questioned if the Association of Idaho Cities or any other municipalities had expressed their opinion regarding the potential legislation. **Chairman Rice** replied that they had a draft of the bill since October, but he expects them to weigh in further with the members of the Committee as the legislation is heard.

MOTION: **Senator Souza** moved to send **RS 28241** to print. **Senator Vick** seconded the motion. The motion carried by **voice vote**, with **Senator Nye** and **Senator Rabe** requesting they be recorded as voting nay.

PASSED THE GAVEL: Vice Chairman Grow passed the gavel to Chairman Rice.

INTRODUCTION OF PAGE: **Chairman Rice** welcomed the Committee's new page, Jaylee Harris, from Burley, Idaho. **Ms. Harris** informed the Committee that she is the Student Body Vice President at Burley High School and plans to pursue a career as a diplomat. In college she intends to study international policy, and she sought the page position for insight in how our government works and policy is made. She has been on the soccer and softball team throughout high school, and is currently a snowboarding instructor at their local resort on the weekends.

ADJOURNED: There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:07 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, January 28, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approve the Minutes of January 20, 2021	Senator Bayer
RS28307C1	Relating to Urban Renewal	Senator Souza

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Rice

Vice Chairman Grow

Sen Vick

Sen Lakey

Sen Souza

Sen Bayer

Sen Ricks

Sen Nye

Sen Rabe

COMMITTEE SECRETARY

Machele Hamilton

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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, January 28, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3.00 p.m.

MINUTES APPROVAL: **Senator Bayer** moved to approve the Minutes of January 20, 2021. **Vice Chairman Grow** seconded the motion. The motion carried by **voice vote**.

RS 28307C1 **Relating to urban renewal, to provide limitations on the use of eminent domain.** **Senator Souza** presented **RS 28307C1**, explaining that this bill had been presented last year, with the intent to limit the power to urban renewal boards whose members are not elected. In the case of appointed members, an urban renewal board may act as advisory only on a decision of eminent domain. **Senator Souza** stated that upon dissolution of the urban renewal agency, title to all property of the agency reverts to the municipality. This was requested so bonding authority would not be affected.

MOTION: **Senator Vick** moved to send **RS 28307C1** to print. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:05 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, February 02, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approve the Minutes of January 28, 2021	Senator Vick
S 1044	Relating to Urban Renewal; to provide a certain limitation on the use of eminent domain	Senator Souza
RS28392	Relating to Taxing District Budgets; to revise provisions regarding the limitation on taxing district budget requests	Senator Rice

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Rice
Vice Chairman Grow
Sen Vick
Sen Lakey
Sen Souza

Sen Bayer
Sen Ricks
Sen Nye
Sen Rabe

COMMITTEE SECRETARY

Machele Hamilton
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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, February 02, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: Senator Lakey

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:01 p.m.

MINUTES APPROVAL: **Senator Vick** moved to approve the Minutes of January 28, 2021. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

S 1044 **Chairman Rice** stated there would be a slight delay in hearing **S 1044**.

RS 28392 **Relating to Taxing District Budgets; to Revise Provisions Regarding the Limitation on Taxing District Budget Requests.** **Chairman Rice** explained that **RS 28392** was the same as previously presented legislation with minor technical corrections.

MOTION: **Senator Vick** moved to send **RS 28392** to print. **Vice Chairman Grow** seconded the motion. The motion carried by **voice vote**, with **Senator Nye** and **Senator Rabe** requesting they be recorded as voting nay.

S 1044 **Relating to Urban Renewal, to Provide a Certain Limitation on the Use of Eminent Domain.** **Senator Souza** presented **S 1044**, explaining that its intent was to limit the power to urban renewal boards whose members are not elected. In the case of appointed members, an urban renewal board may act as advisory only on eminent domain decisions. **Senator Souza** explained that the legislation had passed easily the previous year, but due to COVID-19, the legislature had been unable to complete the process. The only change to the previous year's legislation was an addition that upon dissolution of the urban renewal agency, title to all property of the agency reverts to the municipality. This was requested in order that bonding authority not be affected.

MOTION: **Senator Nye** moved to send **S 1044** to the floor with a **do pass** recommendation. **Vice Chairman Grow** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:12 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, February 04, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approve the Minutes of February 2, 2021	Senator Rabe
<u>RS28224</u>	Relating to Public Libraries; to provide that certain persons shall not be an appointed trustee of a library board	Senator Zito
<u>RS28225</u>	Relating to State Government; to revise a certain limitation on state employees	Senator Zito

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Rice	Sen Bayer
Vice Chairman Grow	Sen Ricks
Sen Vick	Sen Nye
Sen Lakey	Sen Rabe
Sen Souza	

COMMITTEE SECRETARY

Machele Hamilton
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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, February 04, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:00 p.m.

MINUTES APPROVAL: **Senator Rabe** moved to approve the Minutes of February 2, 2021. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

RS 28224 **Relating to Public Libraries; to Provide That Certain Persons Shall Not Be an Appointed Trustee of a Library Board.** **Senator Zito** presented **RS 28224**, explaining that the legislation states that a mayor or appointed officer of the city shall not be one of the appointed trustees of the library board.

DISCUSSION: **Senator Souza** questioned if the legislation had been prompted by any specific problem. **Senator Zito** responded that there was no issue she was aware of, just a general concern by the Idaho Library Association.

MOTION: **Senator Bayer** moved to send **RS 28224** to print. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

RS 28225 **Relating to State Government; to Revise a Certain Limitation on State Employees.** **Senator Zito** presented **RS 28225**, legislation that changes the limitations on political activities. The legislation specifies that no classified employee of a state department shall be a candidate and hold elective office in any state or federal partisan election.

DISCUSSION: **Senator Rabe** inquired if the legislation had been designed in regard to any specific issue. **Senator Zito** gave an example of a state trooper who desired to run for sheriff. Current statute would require him to quit his job before he could do so, and this legislation would change that.

MOTION: **Senator Vick** moved to send **RS 28225** to print. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:08 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, February 09, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approve the Minutes of February 4, 2021	Senator Nye
H 15	Relating to Property Taxes; to remove obsolete language	Kathlynn Ireland, Property Tax Policy Specialist, Idaho State Tax Commission
H 32	Relating to Sales Tax; to revise provisions regarding the applicability of the sales and use tax to a new manufactured home	Jack Lyman, Government Affairs Representative, Idaho Manufactured Housing Association
H 58	Relating to Income Taxes; to provide for applicability of certain provisions of the internal revenue code	Tom Shaner, Tax Policy Manager, Idaho State Tax Commission

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Rice	Sen Bayer
Vice Chairman Grow	Sen Ricks
Sen Vick	Sen Nye
Sen Lakey	Sen Rabe
Sen Souza	

COMMITTEE SECRETARY

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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, February 09, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: Senator Lakey

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:00 p.m.

MINUTES APPROVAL: **Senator Nye** moved to approve the Minutes of February 4, 2021. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

H 15 **Relating to Property Taxes; To Remove Obsolete Language and Make Technical Corrections.** **Kathlynn Ireland**, Property Tax Policy Specialist, Idaho State Tax Commission (Commission), presented **H 15**. She explained that **H 15** was broken into two sections, with two statutes to amend. Idaho Code § 50-1008 requires obsolete language to be removed, with no fiscal impact.

The second statute to amend is Idaho Code § 63-308, regarding valuation assessment notices. **Ms. Ireland** stated that currently, the deadline for assessment notices are the same day as the deadline for appeals. **H 15** changes the due date from the fourth Monday in November to the third Monday in November.

DISCUSSION: **Senator Bayer** questioned if one week was sufficient to rectify the deadline issue. **Ms. Ireland** responded that the assessment cycle is extremely busy with tax notices and tax bills. The Commission surveyed the counties, and respondents said one week was adequate. Counties have the option to send out the notices early, and more than 50 percent do so. **Ms. Ireland** added that if it was found necessary, the property owner would always have the ability to go to the county commissioners and seek a legal remedy for a missed deadline.

Ms. Ireland reminded the Committee that the referenced section of **H 15** affects the subsequent property roll only. This includes businesses with large, heavy mining equipment; construction companies of great magnitude; and logging companies. It would be unusual for any additional properties to be found on the subsequent roll. These types of businesses have a relationship with the assessor's office and are expecting their assessment notice.

MOTION: **Senator Rabe** moved to send **H 15** to the floor with a **do pass** recommendation. **Senator Nye** seconded the motion. The motion carried by **voice vote**.

H 32

Relating to Sales Tax; To Revise Provisions Regarding the Applicability of the Sales and Use Tax to a New Manufactured Home. **Jack Lyman**, Idaho Manufactured Housing Association, presented **H 32**, which would amend Idaho Code § 63-3606. Confusion arose last spring during an audit by the Commission where they reported that the sale of manufactured homes were subject to sales tax. The Commission staff mistakenly viewed the sale of a manufactured home as a sale to a customer who would use it to construct, alter, repair, or improve real estate, rather than make a wholesale transaction.

The Commission subsequently resolved the issue, and **H 32** is intended to clarify that any sale of a new manufactured home by a licensed manufacturer to a licensed retailer with a resale certificate is exempt from sales tax.

In addition, **H 32** would add the term "manufactured home" to Idaho Code § 63-3609(b). Mobile homes ceased being built in 1976 and homes constructed after that date are manufactured homes.

MOTION:

Senator Lakey moved to send **H 32** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

H 58

Relating to Income Taxes; To Provide for Applicability of Certain Provisions of the Internal Revenue Code. **Tom Shaner**, Tax Policy Manager, Idaho State Tax Commission, presented **H 58**, the annual bill necessary to conform to the Internal Revenue Code (IRC). Idaho aligned with the IRC as of January 1, 2020. **H 58** would move that date forward to January 1, 2021, enabling taxpayers and tax professionals to prepare 2020 income tax returns. Idaho's income tax code starts with federal taxable income. Idaho conforms only to the calculation of federal taxable income, including IRC changes affecting that calculation. Federal taxable income for each taxpayer is then adjusted according to Idaho law to arrive at the Idaho taxable income.

By starting with federal taxable income, Idaho can use federal definitions of income and deductions and avoid having to duplicate the necessary statutes, while retaining control of issues Idaho chooses to adopt, **Mr. Shaner** said. Using the federal taxable income as a starting point saves Idaho taxpayers much time and money. If Idaho did not update the conformity date, it would have a significant negative impact on Idaho businesses and individuals.

The higher-than-average cost of conforming this year was a result of Congress trying to help businesses and individuals survive the uncertain economy of 2020, according to **Mr. Shaner**. In addition to the direct stimulus payments, Congress relaxed tax rules in several places to provide relief. An overall weighted average of a cost of \$59 million was used. A review committee consisting of Commission staff, Division of Financial Management staff, and members of the Idaho Society of Certified Public Accountants (ISCPA) was formed to review bills and formulate the cost (see Attachment 1).

DISCUSSION:

Senator Nye questioned **Mr. Shaner** regarding what he believed to be an error in the Statement of Purpose for **H 58**. Number 3 of the second page of the Statement of Purpose should read, "Change in depreciation of nonresidential property from 39 yrs to 30 yrs," **Senator Nye** said. **Mr. Shaner** agreed that it was a typing error.

Senator Nye asked why, if there was a trailer bill forthcoming, would the Committee vote on **H 58** now? **Chairman Rice** explained it was important to pass **H 58** today, as it affects current tax issues, while any trailer bill would not be as time-sensitive and predominantly affect future tax issues.

MOTION:

Vice Chairman Grow moved to send **H 58** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion.

- DISCUSSION:** **Vice Chairman Grow** informed the Committee that he could have a potential point of conflict. His son serves as a Certified Public Accountant (CPA) on the ISCPA Income Tax Committee. **Chairman Rice** stated it is always appropriate to err on the side of caution rather than fail to declare any potential conflict of interest.
- VOICE VOTE:** The motion to send **H 58** to the floor with a **do pass** recommendation carried by **voice vote**.
- ADJOURNED:** There being no further business at this time, **Chairman Rice** adjourned the meeting at 4:04 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary



2021 Idaho Conformity to Internal Revenue Code and Federal Tax Law Changes

Idaho is aligned with the Internal Revenue Code (IRC) as of January 1, 2020. This bill will move that date forward to January 1, 2021. This bill is to enable taxpayers and tax professionals to prepare 2020 income tax returns.

Idaho's income tax code is based on starting with the federal taxable income. Our state tax returns begin with adjusted gross income (AGI) for convenience. It's important to note that the only thing we really conform to is the calculation of federal taxable income, including IRC changes affecting that calculation. Federal taxable income for each taxpayer then is adjusted according to Idaho law to arrive at their Idaho taxable income.

I'm including a copy of the Idaho statutes governing conformity.

By starting with the federal taxable income, Idaho can use most of the federal definitions of income and deductions and avoid having to duplicate all the statutes necessary to get to that point while retaining control of specific issues that Idaho chooses whether to adopt. There's no need to define wages, expenses, and all the basics separately in Idaho law.

Using the federal taxable income as a starting point saves Idaho taxpayers a tremendous amount of work by not having to replicate the effort of preparing the federal income tax return – by using the answer from that return as the starting point for the Idaho return and then making the adjustments required by Idaho law.

The fiscal impact this year is large. The CARES Act and the December stimulus bill that Congress passed have some large tax cuts. The cost of Idaho conforming to those are estimated at approximately \$59 million.

Idaho has opted not to conform to specific federal laws in the past while still conforming to the IRC in general. Bonus depreciation is one example.

Using the taxable income number from the federal return as the starting point for the Idaho return and then making the adjustments required by Idaho law dramatically simplifies the income tax reporting process. If Idaho didn't update the conformity date it would have a significant negative impact on Idaho businesses and individuals. It would delay the 2020 tax filing season significantly and increase the cost of processing.

The higher-than-average cost of conforming this year is because Congress was trying to help businesses and individuals survive the uncertain economy in 2020. In addition to the direct stimulus payments, Congress relaxed the tax rules in several places to provide relief. This year we've given a likely range for the cost of each item. A lot of these depend on taxpayer behavior. We took an overall weighted average for the total cost to be \$59 million. A review committee made up of Tax Commission staff, Division of Financial Management staff, and some members of the Idaho Society of CPAs' tax committee was formed to review these bills and formulate the cost.

1. Looking at our fiscal note, the first item listed is a temporary waiver of the minimum distribution and contribution rules for individual retirement arrangements. The old rules required people to start taking distributions from IRAs and stop making contributions in the year that they turned 70½. This change allows taxpayers to wait until they reach 72 years of age to start taking distributions and stop making



contributions. We estimated the cost range to be approximately \$9.5 million to \$12.7 million. This change exclusively helps individual taxpayers. The federal laws involved are IRA –26 USC 72, distributions are in code sections 408a & 408b.

2. The next item is some changes to the charitable contribution rules. One new rule is that people who don't itemize on their 2020 income tax return can still take a \$300 deduction for charitable contributions "above the line." That means the deduction for charitable contributions is included in the starting point for calculating Idaho taxes – the AGI. In addition, individuals who itemize can deduct charitable contributions up to 100% of their taxable income for 2020. It previously was 60%. Corporations can deduct 25%, which is up from 10%. We estimate the cost of these changes at between \$1.3 million and \$1.7 million. These changes help both individuals and corporations. The federal law involved is 26 USC 62(a)(22), & 170.
3. This next one is the relaxation of the noncorporate loss limitation that was imposed by the Tax Cuts and Jobs Act, (TCJA) of 2017. The limit in that law for claiming losses from partnerships and Sub Chapter S Corporations was set at \$250,000 for a single person or \$500,000 if you were married filing a joint return. Congress since has removed the limitation for the 2018 through the 2020 tax years. This is one of the most expensive changes for tax year 2020, but it's meant to help struggling business owners. We estimate the cost at between \$24 million and \$53.4 million. This helps individual taxpayers that own or invest in businesses. The federal law involved is 26 USC 461(l).
4. Next is a relaxation of the deduction limit on business operating interest. The TCJA limited the amount of operating interest a business could deduct to 30% of their adjusted taxable income – before operating interest expense. The CARES Act increased that limit to 50% for tax years 2019 and 2020. We estimate the cost of that change to be between \$8.5 million and \$9.2 million. This impacts large corporations and businesses. The federal law involved is 26 USC 163(j).
5. The CARES Act also gave taxpayers a break for nonprescription medical products. The definition of qualified medical expenses was expanded to include over-the-counter medications and personal care products. Federal law allows amounts paid from Health Savings Accounts and Archer Medical Savings Accounts after December 31, 2019, to be treated as payments for medical care even if no prescription is involved. The same standard applies to payments from voluntary Employee Flexible Spending Arrangements and Employer Health Reimbursement Arrangements. Having different federal and state definitions of qualified medical expenses would require taxpayers to keep two sets of records. The estimated cost of this change is approximately \$70,000. This change impacts individual taxpayers. The federal law involved is 26 USC 223(d)(2).

The next section involves tax laws that were changed or extended by the December 2020 stimulus bill.

6. Congress made permanent a lower threshold for claiming medical expenses on Schedule A, the itemized deduction form. The threshold dropped from 10% to 7.5% of the taxpayer's AGI. We estimate the cost of that change at between \$445,300 and \$594,400. This change only impacts individual taxpayers. The federal law involved is 26 USC 213(f).
7. The December bill also contained an extension of the law allowing employers to deduct payments for employees' student loans. Employers previously were only allowed to reimburse tuition fees for employees. The TCJA expanded that to temporarily include student loan payments. We estimate the cost of this measure to be between \$385,100 and \$513,800. This change impacts employers regardless of the type of entity and the employees that receive these benefits. The federal law involved is 26 USC 127(c)(1)(B).
8. The next change is to allow a shorter depreciable life for nonresidential real estate. The life of nonresidential property has been 39 years for decades. This allows using a 30-year life, which increases the depreciation expense taken. We estimate this to cost between \$532,380 and \$1.4 million. This could impact individuals or corporations, anyone who invests in nonresidential property. The federal law involved is 26 USC 168(g)(2)(C).
9. The deduction for business meals has been expanded from 50% to 100%. The estimated cost is between \$1.1 million and \$1.5 million. This will impact both corporations and individual business owners. The federal law involved is 26 USC 274(n)(2).
10. The expanded charitable contributions deduction in the CARES Act that was mentioned above also was extended by Congress in December. This will impact the 2021 tax filing year and therefore Idaho's fiscal year 2021. The estimated cost is between \$1.1 million and \$1.5 million. This is primarily a deduction for individuals, there are no further changes for corporations in this one. The federal law involved is 26 USC 62(a)(22) & IRC 170.
11. In our SOP / fiscal note we combined the next seven items because each one is relatively small.
 - a. Deductions for energy efficient buildings were relaxed. The estimate for that change is between \$41,000 and \$55,000. This impacts anyone that invests in energy efficient buildings. The federal law involved is 26 USC 179D(h).
 - b. The TCJA allowed taxpayers to remove from income any debt relief from a default on a principal residence. That's less important for Idaho because of rising home prices. To constitute debt relief, the homeowner must not only default on the mortgage, but the debt relief represents any amount the bank is unable to recover from selling the house. Our estimated cost is between \$71,800 and \$95,800. This exclusively impacts individuals that lose a home to foreclosure. The federal law involved is 26 USC 108(a)(1)(E).



- c. There's an extra depreciation expense allowed for motor sports facilities. This certainly is going to impact states with NASCAR facilities more than Idaho. But since it's at least possible to have such a facility in Idaho, we estimate an approximately \$1,000 cost. This is limited to businesses that own motor sports facilities. The federal law involved is 26 USC 168(i)(15)(D).
- d. The TCJA allowed some additional costs for live theater and movie production. Again, those activities are more prevalent in other states, but we do have both theaters and some movie production in Idaho. We estimate that cost between \$24,400 and \$32,500. This benefits movie and theater businesses and the local economies that are involved. The federal law involved is 26 USC 181(g).
- e. The TCJA also expanded the deductions available to investors in "Empowerment Zones." Several new empowerment zones were created by the TCJA. Those are overseen by the Idaho Department of Commerce. Those expanded deductions for expenses were extended in the December stimulus bill. Our estimate for the cost to Idaho is between \$80,800 and \$107,790. This helps taxpayers that invest in the designated empowerment zones. The federal law involved is 26 USC 1391(d)(1)(A)(i).
- f. The last item is expected to be relatively small. The depreciation rules for businesses that are located on Indian reservations have been relaxed. Our estimated cost for this change is between \$4,500 and \$6,000. This helps owners of businesses that are located on Indian reservations. The federal law involved is 26 USC 168(j)(9).

Below are the Idaho tax statutes that affect conformity. I've added some bolding and underlining for emphasis. 63-3004 is the only statute that our conformity bill changes, and that change is limited to the effective date.

63-3002. DECLARATION OF INTENT. It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code *relating to the measurement of taxable income*, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law; to achieve this result by the application of the various provisions of the Federal Internal Revenue Code relating to the definition of income, exceptions therefrom, deductions (personal and otherwise), accounting methods, taxation of trusts, estates, partnerships and corporations, basis and other pertinent provisions to gross income as defined therein, resulting in an amount called "taxable income" in the Internal Revenue Code, and then to impose the provisions of this act thereon to derive a sum called "Idaho taxable income"; to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state. All the foregoing is subject to modifications in Idaho law including, without limitation, modifications



applicable to unitary groups of corporations, which include corporations incorporated outside the United States. *Emphasis added.*

63-3004. INTERNAL REVENUE CODE. (63-3004. INTERNAL REVENUE CODE. (1) The term "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, and in effect on the first day of January 2020~~1~~.

(2) For all purposes of the Idaho income tax act, a marriage must be one that is considered valid or recognized under section 28, article III, of the constitution of the state of Idaho and defined in section 32-201, Idaho Code, or as recognized under section 32-209, Idaho Code.

(3) Notwithstanding subsection (2) of this section, marriages recognized and permitted by the United States supreme court and the ninth circuit court of appeals shall also be recognized for purposes of the Idaho income tax act.

63-3011. GROSS INCOME. The term "gross income" means gross income as defined in section 61(a) of the Internal Revenue Code.

63-3011A. ADJUSTED GROSS INCOME. The term "adjusted gross income" means adjusted gross income as defined in section 62 of the Internal Revenue Code.

63-3011B. TAXABLE INCOME. The term "taxable income" means federal taxable income as determined under the Internal Revenue Code. Emphasis added.

63-3011C. IDAHO TAXABLE INCOME. The term "Idaho taxable income" means taxable income as modified pursuant to the Idaho adjustments specifically provided in this chapter. Emphasis added.

AMENDED AGENDA #1
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, February 11, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
<u>RS28353C1</u>	Relating to Bonds and Levies; To revise provisions regarding bond and levy information to be provided by taxing units	Senator Ricks
<u>RS28445</u>	Relating to Local Land Use Planning; To provide that plans and ordinances shall not apply to state and local transportation systems and essential facilities	Steve Price, General Counsel, Ada County Highway District
<u>RS28447</u>	Relating to Highway Districts; To provide for agreements regarding certain financial responsibility for urban renewal projects	Steve Price, General Counsel, Ada County Highway District
<u>RS28549</u>	Relating to Taxing District Budgets; To revise provisions regarding the limitation on taxing district budget requests	Senator Rice
Dockets No.:		
<u>35-0101-2001</u>	Income Tax Administrative Rules	Cynthia Adrian, Income Tax Policy Specialist, Idaho State Tax Commission
<u>35-0103-2001</u>	Property Tax Administrative Rules	Kathlynn Ireland, Property Tax Policy Specialist, Idaho State Tax Commission
<u>35-0109-2001</u>	Idaho Beer and Wine Taxes Administrative Rules	Tom Shaner, Tax Policy Manager, Idaho State Tax Commission
<u>35-0201-2001</u>	Tax Commission Administration and Enforcement Rules	Cynthia Adrian, Income Tax Policy Specialist, Idaho State Tax Commission
<u>36-0101-2000</u>	Idaho State Board of Tax Appeals Rules	Travis VanLith, Tax Specialist, Idaho State Board of Tax Appeals

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice
Vice Chairman Grow
Sen Vick
Sen Lakey
Sen Souza

Sen Bayer
Sen Ricks
Sen Nye
Sen Rabe

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, February 11, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:00 p.m.

MOTION: **Senator Souza** moved to send **RS 28353C1**, **RS 28445**, **RS 28447**, and **RS 28549** to print. **Senator Bayer** seconded the motion.

DISCUSSION: **Chairman Rice** stated he wished to clarify each RS for the public before the Committee vote. **RS 28353C1** was related to bonds and levies, to revise provisions regarding bond and levy information to be provided by taxing units. **RS 28445** refers to local land use planning, to provide that plans and ordinances shall not apply to state and local transportation systems and essential facilities. **RS 28447** was related to highway districts, to provide for agreements regarding certain financial responsibility for urban renewal projects. **RS 28549** was regarding taxing district budgets, to revise provisions regarding the limitation on taxing district budget requests.

Chairman Rice explained the intent of a print hearing was to take a bill to printed form, making it available to the public. He clarified that it is not a hearing in which the Committee advances the bill to the Senate floor. There would be a hearing at a later date where testimony would be allowed for each bill.

VOICE VOTE: The motion to send **RS 28353C1**, **RS 28445**, **RS 28447**, and **RS 28549** to print carried by **voice vote**.

PASSED THE GAVEL: Chairman Rice passed the gavel to Vice Chairman Grow.

DOCKET NO. 35-0101-2001 **Cynthia Adrian**, Income Tax Policy Specialist, Idaho State Tax Commission (Commission), presented **Docket No. 35-0101-2001**, relating to income tax administrative rules. **Ms. Adrian** explained that the Commission is statutorily required to update the tax brackets each year. The Commission automatically removes the oldest table, while adding the most recent. This assures five years of information is always available.

Senator Vick pointed out a typographical error in the 2020 Taxable Income chart on page 9. Commission members assured the Committee that it would be corrected.

Ms. Adrian continued with Rule 263, showing they had updated that table as well, reflecting the statutory requirement. Rule 799 is amended regarding credit for employer contributions to employees' Idaho college savings program. The last four rules of the docket were amended to reflect the change of the program end date from December 31, 2022, to December 31, 2030.

MOTION: **Chairman Rice** moved to approve **Docket No. 35-0101-2001**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 35-0103-2001 **Kathlynn Ireland**, Property Tax Policy Specialist, Idaho State Tax Commission (Commission) presented **Docket No. 35-0103-2001**, relating to property tax administrative rules. She explained that Rule 701 should be deleted as it was redundant. The changes in Rule 803 will update the language to follow statute, and to remove the chart on page 22 in accordance with the Red Tape Reduction Act.

MOTION: **Chairman Rice** moved to approve **Docket No. 35-0103-2001**. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 35-0109-2001 **Tom Shaner**, Tax Policy Manager, Idaho State Tax Commission (Commission), presented **Docket No. 35-0109-2001**, relating to the Idaho beer and wine taxes administrative rules. **Mr. Shaner** informed the Committee that this was the only rule in any chapter that had public input. The previous rule stated that the Commission must witness any destruction or breakage of excess stock of beer or wine. The rule change takes away the requirement for permission from the Commission in advance, however, vendors must still explain their change in inventory.

MOTION: **Senator Souza** moved to approve **Docket No. 35-0109-2001**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 35-0201-2001 **Cynthia Adrian**, Income Tax Policy Specialist, Idaho State Tax Commission (Commission) presented **Docket No. 35-0201-2001**, relating to the tax commission administration and enforcement. She explained the rule change was to add the interest rate and the revenue ruling for calendar year 2021 to the table. Information for the years 1981 through 2016 were to be removed, retaining the five year historical data.

MOTION: **Senator Vick** moved to approve **Docket No. 35-0201-2001**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 36-0101-2000 **Travis VanLith**, Tax Specialist, Idaho State Board of Tax Appeals, presented **Docket No. 36-0101-2000**, relating to the Idaho State Board of Tax Appeals. **Mr. VanLith** stated there were no changes to the docket and requested the Committee approve it.

MOTION: **Senator Rabe** moved to approve **Docket No. 36-0101-2000**. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Grow passed the gavel to Chairman Rice.

ADJOURNED: There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:25 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, February 17, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approve the Minutes of February 9, 2021	Senator Bayer
Gubernatorial Appointment	Committee Consideration of the Gubernatorial Appointment of David Kinghorn, Idaho Board of Tax Appeals	David Kinghorn
Gubernatorial Appointment	Committee Consideration of the Gubernatorial Appointment of Kenneth Nuhn, Idaho Board of Tax Appeals - Virtual Testimony	Kenneth Nuhn
<u>S 1058</u>	Relating to Public Libraries; To provide that certain persons shall not be an appointed trustee of a library	Senator Zito
Page Graduation	Graduation of the Local Government and Taxation Committee Page for the First Half of the Legislative Session, Jaylee Harris of Declo, Idaho	Chairman Rice

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice	Sen Bayer
Vice Chairman Grow	Sen Ricks
Sen Vick	Sen Nye
Sen Lakey	Sen Rabe
Sen Souza	

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, February 17, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:04 p.m.

MINUTES APPROVAL: **Chairman Rice** informed the Committee there would be a delay in approving the Minutes of February 9, 2021.

INTRODUCTION: **Lee Heinrich, Chairman, Board of Tax Appeals (BTA)**, introduced the gubernatorial appointment candidates for the BTA.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment of David Kinghorn, Member, BTA**, of Lewisville, Idaho, for a term commencing June 30, 2019, and expiring June 30, 2022. **Mr. Kinghorn** gave a brief overview of his background and work history. He has stood before the Committee seven times and served on the BTA since 2001. **Mr. Kinghorn** also served as Jefferson County Assessor for four terms, and has hundreds of hours of classroom instruction in the appraisal process.

DISCUSSION: **Senator Souza** noted Mr. Kinghorn's extensive background in educating others about property values and assessments. **Senator Souza** requested Mr. Kinghorn's opinion of the impact on property taxes of appraisals, new growth, and budgeting by municipalities. **Mr. Kinghorn** responded that he was taught the three legged-stool of sales tax, income tax, and property tax. Today the stool is unrecognizable, and in his opinion considerable blame could be placed on exemptions.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment of Kenneth Nuhn, Member, BTA**, of Moscow, Idaho, for a term commencing June 30, 2020, and expiring June 30, 2023. **Mr. Nuhn** informed the Committee that he was the newest member of the BTA, and this was his first appointment renewal. **Mr. Nuhn** stated he had served with the United States Air Force, then began work as a real estate appraiser, retiring in 2012. After that he became an instructor for the University of Idaho in appraisal, as well as an instructor for the federal Appraisal Foundation in the Uniform Standards of Professional Appraisal Practice.

Senator Souza questioned how to balance new growth evaluations and budgeting with the extreme growth in Idaho. **Mr. Nuhn** responded that the three issues needing to be addressed were the marketplace, the necessary infrastructure, and the requirement that assessments abide by the state statutes regarding market value.

MINUTES APPROVAL: **Senator Bayer** moved to approve the Minutes of February 9, 2021. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

S 1058

Relating to Public Libraries; to Provide That Certain Persons Shall Not Be an Appointed Trustee of a Library Board. **Senator Zito** presented **S 1058**, which states that a mayor or appointed officer of a city shall not be one of the appointed trustees of the library board, and that the library director shall oversee hiring. **Senator Zito** recounted her childhood memories of the library and how important libraries are to so many people. She expressed they should be nonpolitical and nonpartisan, and run by individuals who care about libraries.

TESTIMONY:

Katherine Lovan, Idaho Library Association (ILA) volunteer, explained that she was once a library director, but is now a stay-at-home mother. She emphasized how critical it is that library directors are able to work with the library board, confident that decisions are made in the best interest of the library. If members of the board have other roles within a municipality, that could compromise decisions made regarding the library.

Senator Souza expressed her remorse that libraries have become much larger and more fanciful today and that they have become political in many communities. She agreed this was unfortunate and should not be happening. **Senator Lakey** expressed his concern that **S 1058** would make it difficult for smaller communities to find people to serve on library boards. The knowledge that the ILA was supporting the legislation would allow him to vote in favor of it.

MOTION:

Senator Souza moved to send **S 1058** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

**PAGE
GRADUATION:**

Chairman Rice honored Page Jaylee Harris from Declo, Idaho. **Ms. Harris** thanked the Committee and said how grateful she was for the opportunity to serve. She expressed her concern that politics have become so polarizing and she was grateful to see that Idaho Senators have good relationships. **Ms. Harris** plans to study international policy, and become a foreign service officer. She felt the time spent at our Capitol would help in those endeavors.

Chairman Rice expressed the gratitude of the Committee for her service by giving her a letter of appreciation signed by the members. He then gave her gifts from the Committee, as well as a letter of recommendation.

ADJOURNED:

There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:55 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, February 18, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
<u>S 1108</u>	Relating to Taxing District Budgets; To revise provisions regarding the limitation on taxing district budget requests	Senator Rice

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice
Vice Chairman Grow
Sen Vick
Sen Lakey
Sen Souza

Sen Bayer
Sen Ricks
Sen Nye
Sen Rabe

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, February 18, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:02 p.m.

PASSED THE GAVEL: Chairman Rice passed the gavel to Vice Chairman Grow.

S 1108 **Relating to Taxing District Budgets; to Revise Provisions Regarding the Limitation on Taxing District Budget Requests.** **Chairman Rice** presented **S 1108** to the Committee, emphasizing that property taxes in the state are growing much faster than income. He explained that throughout history Idaho has used different formulas to finance government, and he gave a brief history of property tax in the state. **Chairman Rice** then described the current process where there is an allowance of 3 percent growth in the budget from the previous year, plus the value of new construction. The new construction value is calculated using the assessed value of the new construction and multiplying it by the previous year's levy rate. **Chairman Rice** explained that **S 1108** requires the local unit of government to establish how much of the allowed 3 percent growth they intend to use, then calculate a preliminary levy rate using all property except new construction. That current levy rate would then be applied toward the new construction. The local unit of government would receive 75 percent of the resulting number as their additional budget, and 25 percent would go toward reducing property taxes.

Chairman Rice pointed out that **S 1108** also addresses urban renewal districts. The legislation specifies that when an urban renewal district expires, 50 percent of that calculated tax value would then go to budget increases and 50 percent to property tax relief.

Chairman Rice explained the final component of **S 1108** regarding foregone taxes. When a local unit of government does not take the full property tax increase they are legally entitled, they can place the remaining amount into foregone taxes. These foregone taxes are recoverable at a future date. **S 1108** specifies that any government entity that claims foregone taxes will be limited to a 4 percent total budget increase.

TESTIMONY: The following individuals testified in support of **S 1108**: **Fred Birnbaum**, Legislative Affairs Director, Idaho Freedom Foundation; **Russ Hendricks**, Director of Governmental Affairs, Idaho Farm Bureau Federation; and **Bryce Durrant**, Citizen Taxpayer.

Seth Grigg, Executive Director, Idaho Association of Counties, and **Miguel Legaretta**, President, Associated Taxpayers of Idaho, each testified that their organization would not take a position on **S 1108**.

The following individuals testified in opposition to **S 1108**: **Debbie Kling**, Mayor, City of Nampa; **Doug Racine**, Director of Finance, City of Nampa; **Mark Mitton**, City Administrator, City of Burley; **Chelsea Wilson**, Communications Specialist, City of Caldwell; **Joe Stear**, Mayor, City of Kuna; **Richard Davies**, Executive Director, Nampa Fire Protection District; **Travis Rothweiler**, City Manager, City of Twin Falls; **Frank Wolfkiel**, Commissioner, Nampa Fire Protection District; **Leon Duce**, City Administrator, City of Rathdrum; **David "Rudy" Rudebaugh**, Legislative Chairman, Idaho State Fire Commissioners' Association; **Jim Francis**, Council Member, City of Idaho Falls; **Robert Simison**, Mayor, City of Meridian; **Paul Wagner**, Commissioner, Kootenai County Fire and Rescue; **David Lehman**, Primus Policy Group, Meridian Development Association; **John Beacham**, Public Works Director, City of Post Falls; **Juan Bonilla**, Fire Chief, Donnelly Rural Fire Protection District; **Todd Belnap**, Commissioner, Minidoka Fire Protection District; **John Evans**, Mayor, City of Garden City; **Kelley Packer**, Executive Director, Association of Idaho Cities; and **Tom Lamar**, Commissioner, Latah County.

The following individuals provided written testimony in opposition to **S 1108**: **Mitchell J. Hart**, PE, Council President, City of Soda Springs; **Hyrum Johnson**, Mayor, City of Driggs; **August Christensen**, Council President, City of Driggs; **Peter Hendricks**, Mayor, City of Sun Valley; **David Winder**, Chairman, **Nathan Mueller**, Vice Chairman, and **Steve Vlassek**, Secretary/Treasurer, Meridian Development Corporation; **Kevin B. England**, Mayor, City of Chubbuck; **Rusty Coffelt**, Chairman, Eagle Urban Renewal Agency; **Lisa Holland**, Economic Development Director, City of Kuna; **Brian C. Blad**, Mayor, City of Pocatello; **Brent Tolman**, President, Redevelopment Association of Idaho, Inc.; **Robert Phillips**, President & CEO, Brighton Corporation; **Anette Spickard**, City Manager, City of McCall; **Brett Hoyer**, City Administrator, City of Hayden; **Brent Orton**, PE, MSCE, Public Works Director, City of Caldwell; **John P. Magnuson**, Owner, Bluegrass Development, LLC; **Robert Simison**, Mayor, City of Meridian; **David "Rudy" Rudebaugh**, Legislative Chairman, Idaho State Fire Commissioners' Association; **Kathy Griesmyer**, Government Affairs Director, City of Boise; **Patrick M. Knight**, Chief of Police, City of Post Falls; **Ronald G. Jacobson**, Mayor, City of Post Falls; **Bryan Lovell**, President, Idaho State Lodge, Fraternal Order of Police; **Kathie LaFortune**, Chairman, **Thomas C. Lamar**, Commissioner, and **David McGraw**, Commissioner, Latah County Board of County Commissioners; **Thomas Greif**, President, North Idaho Fire Chiefs Association; **Christina Hirsch**, Treasurer, Meridian Library Board of Trustees; **Jason Boal**, Chairman, Idaho Legislative Committee, American Planning Association; **Mike Williams**, City Administrator, City of Jerome; **Shannon Tolman**, Fire Chief, Burley Fire Department; **Beth Ineck**, Economic Development Director, City of Nampa; **Robert Lau**, Council Member, City of Soda Springs; and **Thomas Hally**, Council Member, City of Idaho Falls.

MOTION: **Senator Rice** moved to send **S 1108** to the floor with a **do pass** recommendation. **Senator Vick** seconded the motion.

DISCUSSION: **Senator Bayer** told the Committee she now understood the legislation better than she had before the Committee meeting, and though she felt taxpayers need even more relief, **S 1108** is a beginning. **Senator Ricks** agreed that it was a step in the right direction. He said he believes government needs to learn to do more with less. **Senator Lakey**, pursuant to Rule 39(H), noted a possible conflict of interest, as his legal firm represents several government entities. He expressed his concern that so many cities find fault with the formula and he would not support the motion. **Senator Vick** explained to the Committee that in his time in the Legislature, property taxes have been a consistent issue, and the taxing districts have never come forward with any solution. Although more is necessary, this is an opportunity to vote on a reduction, and he would support the motion. **Senator Souza** declared that **S 1108** is not perfect but believes it is better than recognized and would support the motion. **Senator Rabe** stated she does not believe **S 1108** will provide the

relief that is needed. **Senator Grow** stated he does not believe in shifting the tax burden. **S 1108** may not give as much relief as necessary, but it will slow the rate of increase, he said. A pause in the rapid accelerating rates is worth it, and **Senator Grow** supports the legislation. **Senator Nye** declared a possible conflict of interest.

VOICE VOTE: The motion to send **S 1108** to the floor with a **do pass** recommendation carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Rice** adjourned the meeting at 6:01 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, February 23, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approve the Minutes of February 11, 2021	Senator Souza
Introduction of Page	Welcome and Introduction of Committee Page, Colton Rietema, of Wilder, Idaho	Chairman Rice
Gubernatorial Appointment Vote	Committee Vote of the Gubernatorial Appointment of David Kinghorn, Board of Tax Appeals	Chairman Rice
Gubernatorial Appointment Vote	Committee Vote of the Gubernatorial Appointment of Kenneth Nuhn, Board of Tax Appeals	Chairman Rice

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice	Sen Bayer
Vice Chairman Grow	Sen Ricks
Sen Vick	Sen Nye
Sen Lakey	Sen Rabe
Sen Souza	

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, February 23, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: Senators Lakey and Souza

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:01 p.m.

MINUTES: **Chairman Rice** informed the Committee there would be a delay in approving the Minutes of February 11, 2021.

PAGE INTRODUCTION: **Chairman Rice** welcomed the Committee's new page, Colton Rietema, from Wilder, Idaho. Mr. Rietema informed the Committee that he was home-schooled for grades K-12 and recently graduated. He has been working in construction since then in anticipation of serving in the Senate. He studied history and government, and has an interest in American politics. Mr. Rietema was involved in the Capstone Student Legislature and said he felt it was extremely informative. The Committee welcomed him.

VOTE ON GUBERNATORIAL REAPPOINTMENTS: **Senator Grow** moved to send the Gubernatorial Reappointment of David Kinghorn to the Board of Tax Appeals to the floor with a recommendation that he be confirmed by the Senate. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

Senator Bayer moved to send the Gubernatorial Reappointment of Kenneth Nuhn to the Board of Tax Appeals to the floor with a recommendation that he be confirmed by the Senate. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

MINUTES: **Senator Vick** informed the Committee that he reviewed the Minutes, as did Senator Souza, and moved to approve the Minutes of February 11, 2021. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:08 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, February 25, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approve the Minutes of February 17, 2021	Senator Rabe
H 170	Relating to Income Tax; Regarding Idaho Taxable Income	Representative Harris
S 1105	Relating to Bonds and Levies; Regarding Bond and Levy Information on Property Tax Notices	Senator Ricks
H 120	Relating to Veterans; Regarding Certain Property Tax Reductions	Senator Ricks

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice	Sen Bayer
Vice Chairman Grow	Sen Ricks
Sen Vick	Sen Nye
Sen Lakey	Sen Rabe
Sen Souza	

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, February 25, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick (Vick), Lakey, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:02 p.m.

MINUTES APPROVAL: **Senator Rabe** moved to approve the Minutes of February 17, 2021. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

H 170 **Relating to Income Tax; Regarding Idaho Taxable Income.** **Senator Grow** presented **H 170** and noted that Representative Harris was unavailable. **Senator Grow** informed the Committee that **H 170** was a trailer bill to **H 58**, which conformed to the Internal Revenue Code (IRC) as of January 1, 2021. The removal of non corporate loss limitations in the IRC was not included in the original conformity bill, and **H 170** allows Idaho taxpayers to carry a net operating loss forward for up to 20 years.

DISCUSSION: **Senator Souza** questioned if the new language in **H 170** was due to COVID-19. **Senator Grow** responded that he was not aware of it having anything to do with the pandemic. **Senator Rice** confirmed that discussions regarding excess business losses occurred prior to COVID-19.

TESTIMONY: **Miguel Legaretta**, Associated Taxpayers of Idaho, testified in support of **H 170**. He explained to the Committee that **H 170** simply reinstates what was previously in Idaho Code. It is a business friendly provision that should remain in statute.

MOTION: **Senator Grow** moved to send **H 170** to the floor with a **do pass** recommendation. **Senator Nye** seconded the motion. The motion carried by **voice vote**.

S 1105 **Relating to Bonds and Levies; Regarding Bond and Levy Information on Property Tax Notices.** **Senator Ricks** presented **S 1105** to the Committee, informing them it was necessary to fix an issue created by H 518a from the last Legislative Session that required property tax statements include expiration dates of bonds and levies. The amendment to H 518a contained an incorrect reference. **S 1105** makes technical corrections to the statute but does not change the intent. **Senator Ricks** explained that the legislation also requires that a county Treasurer maintain a current list of bonds and levies on the county website.

MOTION: **Senator Nye** moved to send **S 1105** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

- H 120** **Relating to Veterans; Regarding Certain Property Tax Reductions. Senator Ricks** introduced Representative Brooke Green, District 18. **Representative Green** presented **H 120** to the Committee, relating how the legislation had passed out of the House Revenue and Taxation Committee, and the House floor, both unanimously. **Representative Green** explained that qualified veterans are able to apply for a reduction in their property taxes. Currently, the deductions stay with the home, potentially giving non-veterans those benefits. **H 120** allows that reduction to follow the veteran to their new home, providing they meet the application deadline.
- DISCUSSION:** **Chairman Rice** informed the Committee that he had checked with the State Tax Commission and **H 120** does not create an issue. He said they feel **H 120** is good legislation.
- TESTIMONY:** **Lawrence Skawinski**, a Boise resident representing himself, testified in support of **H 120**. He explained to the Committee that he was approved for his property tax deduction in 2020. He relocated and his tax benefit stayed with the home. He contacted the Tax Commission and they informed him they had to follow statute and suggested he contact his representative, Representative Green.
- DISCUSSION:** **Senator Ricks** questioned how many veterans would be affected by **H 120**. **Representative Green** responded that 50-100 could possibly be affected. Only those veterans with 100 percent disability are eligible.
- MOTION:** **Senator Ricks** moved to send **H 120** to the floor with a **do pass** recommendation. **Senator Rabe** seconded the motion. The motion carried by **voice vote**.
- ADJOURNED:** There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:28 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, March 03, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approve the Minutes of February 18, 2021	Senator Lakey
Minutes	Approve the Minutes of February 23, 2021	Senator Bayer
H 73	Relating to the Finances of Local Governmental Entities and Education Providers; To Provide For a Uniform System of Accounting and Financial Transparency.	Representative Addis

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice	Sen Bayer
Vice Chairman Grow	Sen Ricks
Sen Vick	Sen Nye
Sen Lakey	Sen Rabe
Sen Souza	

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, March 03, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:01 p.m.

MOTION: **Chairman Rice** asked for unanimous consent to send **H 154** to the floor for reassignment. There were no objections.

Chairman Rice asked for unanimous consent to send **RS 28757** to the State Affairs Committee for printing. There were no objections.

MINUTES APPROVAL: **Senator Lakey** moved to approve the Minutes of February 18, 2021. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

Senator Bayer moved to approve the Minutes of February 23, 2021. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

H 73 **Relating to the Finances of Local Governmental Entities and Education Providers; To Provide for a Uniform System of Accounting and Financial Transparency.** **Chairman Rice** informed the Committee that the Statement of Purpose for **H 73** contained transposed numbers that would be corrected.

Representative Jim Addis presented **H 73**, informing the Committee that the legislation was developed over several Legislative Sessions. **Representative Addis** attended a "Transparent Idaho" presentation by Controller Brandon D. Woolf, and including local taxing districts on the Transparent Idaho website became an objective. **H 73** authorizes the Controller to create and implement a uniform accounting manual for local taxing districts and entities, ensuring comparable entities account for their expenditures in a like manner. **Representative Addis** stated the streamlining will give all levels of government the factual, uniform, hard data necessary to make proper policy decisions. **H 73** also aids the taxpayer by simplifying data, which increases public trust, he said.

Representative Addis referenced a study by the Harvard Business School that reflects how transparency in government impacts behavior (see Attachment 1). He stated that larger government entities have the potential to save up to 10 percent of their budget if they implement certain transparency measures. Idaho levies over \$2 billion per year, which could result in \$215 million in aggregate taxpayer savings across the State. **Representative Addis** emphasized that even the lowest savings of 1 percent, based on smaller government entities, would still be an aggregate savings to Idaho taxpayers of \$21 million.

Representative Addis then detailed that **H 73** does not instruct any local entity how much or how little to spend, or on what to spend funds. The bill does require that expenditures and budgets are uniformly reported and posted on the Controller's website. **H 73** does not create new data to submit but takes information already required by statute to be submitted to the Legislative Services Office, and reroutes it to the Controller's office.

Representative Addis introduced Representative Wendy Horman to present the education portion of **H 73**. **Representative Horman** explained to the Committee that Idaho school districts upload their fiscal data to their individual website. **H 73** will require all school district information also be placed on the Transparent Idaho website. **Representative Horman** pointed out that public education requires a significant amount of funding from the State budget and she believes that budget transparency will offer substantial savings to the State. She related the intent is that eventually **H 73** will have zero impact to the state budget.

DISCUSSION: **Senator Souza** questioned if the reported data required by **H 73** would be in a language or format in which the average citizen could understand the budget for their school district. **Representative Horman** said there is a lack of clarity regarding expenditures on the local level and that she believes **H 73** will help rectify that issue. The legislation will allow citizens to compare revenues from the state and levies with expenditures across districts. **Representative Horman** clarified that the bill would not change the school funding formula.

Senator Lakey pointed out that **H 73** requires local entities define and classify the various funds, accounts, grants, and other financial structures by account and title, including estimates and actual revenues and expenditures. **Senator Lakey** questioned how this would assist counties any more than what is currently required. **Representative Addis** explained that the Controller's Office would take the data from all individually operated entities and put it in a uniform and common format that is easy to understand. **Representative Addis** assured the Committee members that the benefit of **H 73** to local entities will not be in crafting budgets but allowing benchmarking. In addition, the uniform accurate data will allow better decision making at the legislative level.

Senator Grow questioned if local entities support **H 73**. **Representative Addis** stated that the following organizations favor the legislation: Idaho Association of Counties, Associated Taxpayers of Idaho, Idaho Farm Bureau Federation, Idaho Bankers Association, Idaho Realtors, and the Legislative Services Office. **Senator Lakey** stated his desire that local government entities with experience be represented on the committee created by **H 73**.

Senator Rabe questioned the \$500 late fee that would be imposed 30 days after the due date if the local governmental entity had failed to provide the information required by **H 73**. **Representative Addis** informed the Committee that the \$500 late fee was a suggestion from the Legislative Services Office. It is important that the data be submitted on time or it would create a yearlong delay for the Legislature to take action and the data would no longer be germane.

TESTIMONY: **Josh Whitworth**, Chief Deputy Controller, Idaho State Controller's Office, testified in support of **H 73**. He stated that the Controller's Office believes if it is simple and easy for people to see information, it creates proper discourse to discuss issues and find solutions. **Mr. Whitworth** stated that many other states are pursuing this type of action, and he believes Idaho can be a leader in collaboration and transparency with **H 73**.

- DISCUSSION:** **Senator Grow** requested an explanation regarding the cost of **H 73**. Generally there is an initial cost to a program, then a considerable drop-off in the second year. He questioned why the cost did not decrease more in subsequent years. **Mr. Whitworth** explained that part of the cost is personnel as well as operating costs that include platform, accounting expertise, consulting work, business analysts, and software.
- Senator Lakey** asked if it is possible to track the number of citizens visiting Transparent Idaho's website. **Mr. Whitworth** replied that he believes approximately 300 to 400 citizens per day visit the site. **Senator Nye** asked if there was an estimate available for the indirect cost to each local entity for the implementation of **H 73**. **Mr. Whitworth** informed them there was no estimate available. He reminded the Committee that **H 73** requests data that is already required by the State.
- MOTION:** **Senator Nye** moved to send **H 73** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion.
- DISCUSSION:** **Senator Lakey** and **Senator Rabe** expressed concern with the cost savings claimed in the fiscal note of **H 73**. **Senator Souza** noted the significant amount of groups supporting **H 73**. Distrust in government is present in every level, from local to federal, to school districts, according to **Senator Souza**. She believes the transparency and accountability provided by **H 73** will stop the undermining of trust in government.
- VOICE VOTE:** The motion to send **H 73** to the floor with a **do pass** recommendation carried by **voice vote**.
- ADJOURNED:** There being no further business at this time, **Chairman Rice** adjourned the meeting at 4:16 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

The Local Entity Reporting Program

Striving to create a clearinghouse of all state financial data in one easy to access interactive location

State and local government entities from across the nation are leading the charge towards digital transformation with hopes of making their organizations more secure, responsive, and accessible to citizens while using the least amount of taxpayer resources to do it.



*Information above courtesy of: 431 Research

Data Transparency is Important Because it:



Scope of the Local Entity Reporting Program

COLLABORATION

Collaboratively working with various local governmental entities, the legislature, and state accounting professionals.



CAPITALIZING ON EFFORTS

Capitalizing on previous standardization efforts will provide the foundation for standardization in this effort.



SUPPORTING ENTITIES

Providing resources to every entity to ensure their staff is not burdened by the transparency efforts.



44
COUNTIES



202
CITIES



177
SCHOOL DISTRICT
& CHARTER



1,112
OTHER LOCAL
DISTRICTS

Organizations able to quantify their gains from analyzing big data reported an average 8% increase in revenues and a 10% reduction in costs."

- Harvard Business School Quoting a BARC Study

What Could these Potential Cost Saving Look Like for Idaho's Property Taxes?

Predicted	Property Tax 2020	\$2,152,707,163.00
	Population Growth	1,787,065
	Property Tax per Capita	\$1,204.60

Potential	1%	21,527,071
	5%	107,635,358
	10%	215,270,716

AMENDED AGENDA #1
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, March 04, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Gubernatorial Appointment	Committee Consideration of the Gubernatorial Appointment of Jefferson McCray, Burley, Idaho, State Tax Commission	Jefferson McCray
<u>H 110</u>	Relating to Development Impact Fees; To Revise Provisions Regarding Intergovernmental Agreements	Brody Aston, Ada County
<u>H 124</u>	Relating to Impact Fee Advisory Committee Membership	Representative Skaug
<u>H 214</u>	Relating to the State Tax Commission; To Revise Provisions Regarding the Responsibility of the Chairman	Representative Manwaring

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice	Sen Bayer
Vice Chairman Grow	Sen Ricks
Sen Vick	Sen Nye
Sen Lakey	Sen Rabe
Sen Souza	

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, March 04, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:12 p.m.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Jefferson McCray, State Tax Commission** (Commission), of Burley, Idaho, for a term commencing October 13, 2020, and expiring April 26, 2025. **Mr. McCray** gave a brief overview of his background and work history. He related that he believes in public service and his focus is supporting others to succeed. **Mr. McCray** believes the Commission is a purpose-driven and principled organization with a genuine customer service attitude.

DISCUSSION: **Vice Chairman Grow** shared his concern as a Certified Public Accountant (CPA) that the Commission does not have any Commissioners experienced in taxes. He explained that in his experience it is important that CPAs can go to a Commissioner and speak the same professional language. **Mr. McCray** assured Committee members that they can go to the Commissioners with any particular issue. He explained that the Commission is organized with four Commissioners, each having oversight for varying tax types. The intent was to create a distinct separation of duties so there was no appearance of influence within the tax types. **Mr. McCray** explained that appeals are brought forward to that particular Commissioner who would then make a recommendation to the Commission. The oversight Commissioner would not have a vote on the disposition of the appeal.

Vice Chairman Grow inquired as to the duties of the four Commissioners given that a manager presides over the body. **Mr. McCray** stated that the design of the Commission is that it has a Chief Operating Officer who handles the day-to-day operations. He related that this is designed to allow the Commissioners to spend their time focusing on policy issues.

Senator Ricks requested that Mr. McCray expound on his vision and goals for the Commissioner position. **Mr. McCray** related that his experience is in leading teams of people. He explained that the tax code is extremely complex and he believes it unlikely that anyone could become an expert in all tax types. **Mr. McCray's** vision is to continue to drive the strategic plan and identify those improvement opportunities for the Commission to continue to become an efficient agency.

Chairman Rice requested that Mr. McCray relate his philosophy in approaching a technical or legal question regarding the tax code. **Mr. McCray** responded that the Commission is filled with experts and seeking input is important. When making decisions, the law as it is written must be followed, and the Commission has a strong legal team to help with interpretation. **Mr. McCray** emphasized that he would always choose to err on the side of grace when there was no clear-cut definition or interpretation of the law available.

H 110 **Chairman Rice** informed the Committee that **H 110** would be moved to the end of the agenda.

H 124 **Relating to Impact Fee Advisory Committee Membership. Representative Bruce Skaug** presented **H 124**, a bipartisan bill that requires all members of a municipal impact fee committee to reside within the community boundaries. Currently, Idaho Code requires two members of the development community be on the committee. **H 124** would keep that requirement and add two members who are not part of the development to the committee. The legislation would also prevent government employees or officials from serving on the impact fee committee in their official capacity. **Representative Skaug** reported to the Committee that **H 124** had passed out of the House Local Government Committee and the House floor unanimously, and there was no known opposition to date.

DISCUSSION: **Senator Lakey** commented on the language in **H 124**, specifically the section stating employees or officials acting in their official capacity for a government entity may not be appointed to the impact fee committee. He requested clarification that, if they were not acting in their official capacity, whether they could be appointed. **Representative Skaug** responded yes.

TESTIMONY: **Hubert Osborne**, a Nampa, Idaho, resident, testified in support of **H 124**. **Mr. Osborne** explained to the Committee that the proposed amendments are intended to address actual abuses of the impact fee code. **Jason Boal**, American Planning Association, Idaho Chapter, testified in support of **H 124**. **Mr. Boal** said they support local citizens and local subject matter experts being involved.

MOTION: **Senator Lakey** moved to send **H 124** to the floor with a **do pass** recommendation. **Vice Chairman Grow** seconded the motion. The motion carried by **voice vote**.

H 214 **Relating to the State Tax Commission; To Revise Provisions Regarding the Responsibility of the Chairman. Representative Dustin Manwaring** presented **H 214**, a bill that clarifies governance at the Commission. The legislation requires that the Commission Chairman must have the advice and consent of the Commissioners before assigning administrative authority such as personnel, budgetary, and fiscal matters. **Representative Manwaring** advised that **H 214** also states that any unilateral actions taken by the Chairman may be reviewed by the full Commission upon the request of a Commissioner. He stated that this was a good time to clarify legislative intent on how the Commission should operate due to there being a new Commission Chairman, as well as an open seat on the Commission occurring soon.

DISCUSSION: **Vice Chairman Grow** requested clarification regarding an open seat on the Commission. **Representative Manwaring** explained to the Committee that the Commission is split between two Democrats and two Republicans. There is a Democrat seat expiring within days and the Governor will make an appointment to that position.

MOTION: **Senator Nye** moved to send **H 214** to the floor with a **do pass** recommendation. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

H 110

Relating to Development Impact Fees; To Revise Provisions Regarding Intergovernmental Agreements. **Brody Aston**, representing Ada County, presented **H 110**, simple legislation that adds ambulance districts to the list of eligible entities that can enter into agreements to collect impact fees. This will allow local communities to determine the utilization of a development impact fee. **Mr. Aston** explained that Idaho impact fee legislation requires governmental agencies without comprehensive planning powers to enter into an agreement where services are being provided. **H 110** does not change any aspect of the impact fee statute. **Mr. Aston** informed the Committee that **H 110** is supported by the Association of Counties, the Association of Cities, and the Idaho Chapter of the American Planning Association. The legislation passed the House Local Government Committee and the House floor without objection.

DISCUSSION: **Senator Ricks** requested Mr. Aston explain the potential fees involved. **Mr. Aston** related that less than \$200 for a single-family dwelling in Ada County would be an example, a one-time fee on new construction. **Senator Lakey** pointed out that county commissioners and ambulance district commissioners are the same individuals filling different roles and questioned if there could be a transparency issue. **Mr. Aston** responded that even though you may have the same commissioners, they are a separate entity, each with public scrutiny and impact fee boards.

TESTIMONY: **Sara Westbrook**, Idaho Association of Counties, testified in support of **H 110**, calling it an opportunity to assist with growth.

DISCUSSION: **Senator Rabe** asked Ms Westbrook to explain how ambulance districts are currently funded. **Ms. Westbrook** invited Shawn Rayne, Chief, Ada County Paramedics, to present to the Committee. **Mr. Rayne** stated that ambulance taxing districts are funded through both levies and fee services. Using Ada county as an example, the levy is approximately \$9 million which accounts for 28-30 percent of their budget. **Mr. Rayne** then explained that the remainder is collected through service fees billed through insurance companies, medicare, medicaid, and occasionally self-pay.

TESTIMONY: **Jason Boal**, American Planning Association, Idaho Chapter, testified in support of **H 110**, stating that it provides clarity to ambulance service districts throughout the State.

MOTION: **Senator Souza** moved to send **H 110** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:58 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, March 09, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approve the Minutes of February 25, 2021	Senator Vick
H 251	Relating to Income Tax; To Establish Provisions Regarding Certain Federal Relief Moneys in Computing Taxable Income	Representative Manwaring
S 1106	Relating to Local Land Use Planning; To Provide That Plans and Ordinances Shall Not Apply to State and Local Transportation Systems	Jason Kreizenbeck, Ada County Highway District
S 1107	Relating to Highway Districts; To Provide For Agreements Regarding Certain Financial Responsibility For Urban Renewal Projects	Jason Kreizenbeck, Ada County Highway District

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice	Sen Bayer
Vice Chairman Grow	Sen Ricks
Sen Vick	Sen Nye
Sen Lakey	Sen Rabe
Sen Souza	

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, March 09, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:01 p.m.

MINUTES APPROVAL: **Senator Vick** moved to approve the Minutes of February 25, 2021. **Senator Nye** seconded the motion. The motion carried by **voice vote**.

H 251 **Relating to Income Tax; To Establish Provisions Regarding Certain Federal Relief Moneys in Computing Taxable Income.** **Representative Dustin Manwaring** presented **H 251**, which provides that all one-time federal relief moneys received in 2020 are nontaxable. This includes the Idaho Rebounds grants, the Paycheck Protection Program loans, and the COVID-19 Economic Injury Disaster loans. **Representative Manwaring** explained that **H 251** excludes emergency rent assistance, which is already nontaxable to the renter.

DISCUSSION: **Senator Rabe** requested clarification regarding taxing the emergency rental assistance funds. **Representative Manwaring** related that **H 251** refers to replacement income to a landlord that would otherwise be taxable. There is no intent to tax a tenant if they receive the emergency rental assistance directly, he said.

MOTION: **Senator Vick** moved to send **H 251** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

S 1106 **Relating to Local Land Use Planning; To Provide that Plans and Ordinances Shall Not Apply to State and Local Transportation Systems.** **Jason Kreizenbeck**, Lobby Idaho, representing Ada County Highway District (ACHD), presented **S 1106**. **Mr. Kreizenbeck** requested the Committee send **S 1106** to the 14th Order for possible amendment (see Attachment 1) to further define the essential facilities that receive the exemption defined in the legislation. **S 1106** directs local highway jurisdictions to consult and collaborate on transportation essential facilities, he said.

Mr. Kreizenbeck emphasized that **S 1106** does not remove the requirement that the Idaho Transportation Board, or local counterparts, consult with land-use agencies. **S 1106** does not allow the Idaho Transportation Department (ITD), or local highway jurisdictions, to exceed the statutory authority they already have. **S 1106** excludes from the exemption facilities owned or operated by ITD or local highway jurisdictions that are not essential. It also excludes other facilities not owned by ITD or local highway jurisdictions, or facilities that are on new property. **S 1106** does not have any effect on compliance with floodplain regulations, and it does not remove public participation in the process. **Mr. Kreizenbeck** stated that even though **S 1106** may appear to be a local issue, as the State grows, there will be situations where jurisdictions across Idaho that have invested time, dollars, and much effort creating essential facilities, come into conflict with local jurisdictions. The desire by local jurisdictions to change how certain areas are zoned and utilized will inevitably occur. **S 1106** is designed to address the issue.

DISCUSSION: **Mr. Kreizenbeck** introduced Steve Price, General Counsel, ACHD. **Chairman Rice** asked if IDT had received a copy of the proposed amendments, and if the issue had been discussed with them. **Mr. Price** assured him they had received the amendments and he had spoken personally with the ITD Chairman. ITD remains neutral on **S 1106**, Mr. Price said.

TESTIMONY: **Charles Wadams**, City Attorney, Garden City, testified in opposition to **S 1106**. **Mr. Wadams** provided the Committee a nine page handout detailing the city's opposition (see Attachment 2).

The following individuals also testified in opposition to **S 1106**: **John Evans**, Mayor, Garden City; **Kathy Griesmyer**, Government Affairs Director, City of Boise; **Seth Grigg**, Idaho Association of Counties; **Richard Beck**, Director, Ada County Development Services; **William Vaughn**, Zoning Administrator, City of Eagle; **Russell Westerberg**, representing Ada County; **Jason Boal**, Deputy Director of Development Services, Ada County; and **Rod Beck**, Ada County Commissioner. **Bill Nary**, City Attorney, City of Eagle, testified virtually in opposition to the bill.

DISCUSSION: After listening to testimony and much discussion, the consensus of the Committee members was that **S 1106** addressed a local issue and was not appropriate legislation. The genesis of the local dispute was permitting for a salt shed under the jurisdiction of the ACHD, but within the land use boundary of Garden City.

MOTION: **Senator Nye** moved to hold **S 1106** in Committee. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

S 1107 **Relating to Highway Districts; To Provide for Agreements Regarding Certain Financial Responsibility for Urban Renewal Projects.** **Mr. Kreizenbeck** presented **S 1107**, explaining to the Committee it was intended to clarify prior legislation stipulating that if a highway district was participating in an urban renewal district and had a tax increment collected, they must get an agreement with that urban renewal district to make sure the funds were being used for transportation. **S 1107** means to make the current county wide statute consistent with that change and allow the highway districts to enter into such agreements with the urban renewal districts. **Mr. Kreizenbeck** informed the Committee members an amendment was advised by ACHD (see Attachment 3) and requested they send **S 1107** to the 14th Order of Business.

DISCUSSION: **Senator Lakey** clarified that if it was transportation-related, the highway district would not be financially responsible unless there was an agreement. Once in place however, it becomes part of the highway district system and the highway district is responsible for it. **Senator Lakey** noted that **S 1107** should include road reconstruction in addition to road maintenance.

TESTIMONY: **Mr. Westerberg** and **Mr. Boal** testified in support of **S 1107**.

Lisa Holland, Economic Development Director, City of Kuna, testified in opposition to **S 1107**. **Ms. Holland** had questions regarding some of the language in the amendment. She requested the Committee hold the legislation in order that the city's legal counsel would have more time to evaluate it.

DISCUSSION: **Senator Souza** agreed with Ms. Holland's remarks regarding the word "city" in the amendment being a potential problem. The agreement is not with the city but between urban renewal and the highway district. **Mr. Price** specified that the language could include "unless otherwise agreed by the highway district, city and/or urban renewal agency." **Senator Lakey** added that even though it was a rare situation, there were urban renewal agencies formed by counties and it would be wise to include that detail as well.

MOTION: **Senator Souza** moved to send **S 1107** to the 14th Order of Business for possible amendment. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Rice** adjourned the meeting at 5:24 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

Attachment 1

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
CHAPTER 65
LOCAL LAND USE PLANNING

67-6528. **APPLICABILITY OF ORDINANCES.** The state of Idaho, and all its agencies, boards, departments, institutions, and local special purpose districts, shall comply with all plans and ordinances adopted under this chapter unless otherwise provided by law. In adoption and implementation of plans and ordinances, the governing board or commission shall take into account the plans and needs of the state of Idaho and all agencies, boards, departments, institutions, and local special purpose districts. The provisions of plans and ordinances enacted pursuant to this chapter shall not apply to state and local transportation systems and essential facilities as may be determined by the Idaho transportation board or local highway jurisdiction board. Essential facilities shall only include those transportation systems and facilities on existing property owned and operated by the Idaho transportation department or a local highway jurisdiction that are essential and necessary to support the state and local transportation agencies responsibilities in complying with state and federal law. The Idaho transportation board and local highway jurisdiction shall consult and collaborate with the local agencies affected specifically on-site plans and design of transportation systems and essential facilities within local jurisdictions. If a public utility has been ordered or permitted by specific order, pursuant to title 61, Idaho Code, to do or refrain from doing an act by the public utilities commission, any action or order of a governmental agency pursuant to titles 31, 50 or 67, Idaho Code, in conflict with said public utilities commission order, shall be, insofar as it is in conflict, null and void if prior to entering said order, the public utilities commission has given the affected governmental agency an opportunity to appear before or consult with the public utilities commission with respect to such conflict.

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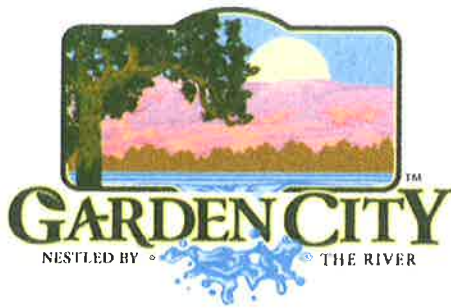
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OFFICE OF THE CITY ATTORNEY

6015 Glenwood Street • Garden City, Idaho 83714
Phone 208/472-2915 • Fax 208/472-2998

March 9, 2021

The Honorable Jim Rice, Chair
Senate Local Government and Taxation Committee Idaho State Senate
P.O. Box 83720
Boise, ID 83720-0081

RE: GARDEN CITY'S OPPOSITION TO SENATE BILL 1106

TO PROVIDE THAT PLANS AND ORDINANCES SHALL NOT APPLY TO LOCAL
TRANSPORTATION SYSTEM "ESSENTIAL FACILITIES" AS DETERMINED BY
LOCAL TRANSPORTATION JURISDICTION BOARDS

Chairman Rice:

On behalf of the City of Garden City (City), I am writing to register the City's opposition of Senate Bill (SB) 1106, which is sponsored by the Ada County Highway District (ACHD). This bill, in part, relates to the exemption of local highway districts from Idaho's Local Land Use Planning Act (LLUPA). The City represents the public interest in carrying out the authorities vested with local governments under LLUPA, Title 67, Chapter 65 of the Idaho Code.

All of the cities in Ada County, and the County of Ada, are uniformly against SB 1106. The Association of Idaho Cities (AIC), the Idaho Association of Counties (IAC), the Idaho Department of Water Resources (IDWR), and the American Planning Association (APA Idaho) also reportedly have concerns with the bill. In short, the only organization I am aware of in support of the bill is ACHD. ACHD's recent changes to the bill do not rectify the concern of knowing what "essential facility" or "existing" means.

INTRODUCTION

The City is concerned by this proposal and feels that the consequences of this bill are widespread, drastic, and problematic. As has previously been stated, transportation and land use planning are inseparable, as one is necessary for the other. As described below, the City agrees with the other agencies in opposition, and finds the proposal concerning because of the following considerations: (1) ACHD has pending litigation regarding the matter against the City; (2) SB 1106 complicates the ability of local jurisdictions to comply with LLUPA; (3) Idaho Code § 46-1023 is inapplicable to SB 1106; (4) the purpose of SB 1106 is troubling; (5) the terms "Essential Facilities" and "Existing" in SB 1106 are ambiguous and do not provide for public process; (6) SB 1106

compromises and is inconsistent with federal mandates; and (7) SB 1106 could have a negative impact on development. The City strongly believes that land use authority best resides with local jurisdictions under the standards, procedures, and protections set forth in LLUPA and by the federal government.

I.

ACHD HAS PENDING LITIGATION AGAINST THE CITY

The Ada County Highway District has pending litigation against the City regarding the “genesis” behind SB 1106. ACHD is the Petitioner in a Petition for Judicial Review against the Garden City Council as the Respondent, in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, in Case No. CV01-20-17508. The litigation is regarding a temporary Conditional Use Permit (CUP) for the Salt and Sand Storage Shed (CUPFY2017-10) on Adams Street, Garden City, Ada County, Idaho. ACHD is represented in the litigation by Mary V. York and Alison C. Hunter with Holland & Hart LLP.

On October 26, 2020, ACHD filed its petition for judicial review of the Garden City Council’s decisions denying ACHD’s request to extend the approval of its CUP for the salt and sand storage shed and ACHD’s request for reconsideration of the denial of its extension request. The Garden City Council heard and denied ACHD’s extension request on August 12, 2020, and heard and denied ACHD’s reconsideration request on September 14, 2020.

In order to remedy a procedural defect, ACHD agreed in the litigation to submit a new application to extend the approval of its CUP to the City Council, and the City Council has agreed to review and hold applicable hearings regarding ACHD’s new application. Accordingly, on December 21, 2020, ACHD and the City entered into a Stipulation to Stay Proceedings and deadlines in the litigation pending the outcome of all agency review and proceedings concerning ACHD’s new application to extend the approval of its CUP. On December 22, 2020, District Judge Medema approved the Stipulation and all deadlines and proceedings in Case No. CV01-20-17508 were stayed pending resolution of all agency review and proceedings concerning ACHD’s new application to extend the approval of its CUP or as otherwise determined by an Order of the Court.

However, ACHD has not submitted a new application to extend the approval of its CUP even though the City has agreed to review the application. Rather than submitting a new application to extend the approval of the CUP, ACHD has proposed SB 1106. Accordingly, even though ACHD has a potential judicial remedy that is pending in its court case, it has opted to turn to the legislature instead.

These occasional disputes about facilities and local governments can be reasonable and perhaps the highway district just does not like the results, which means the system is working. The highway districts can dispute LLUPA decisions (just like any other adversely affected party), which is what is currently happening with the City, as the ACHD has filed a petition for judicial review regarding the salt shed. Turning to the

legislature on pending litigation is problematic.

II.

PLANNING AND THE LOCAL LAND USE PLANNING ACT

Senate Bill 1106 further separates and confuses land use planning and transportation planning, and complicates the ability of local jurisdictions to comply with planning mandates set forth in LLUPA. Most jurisdictions throughout the United States are responsible for their own transportation planning, infrastructure improvements, and maintenance. As we know, in Ada County, this responsibility has been jointly delegated by the county and all cities to the ACHD as authorized by Idaho Code. The proposed language of SB 1106 undermines the ability of cities and counties to fulfill their mandate to exercise the powers conferred under the LLUPA.

Senate Bill 1106 exempts local transportation systems in their entirety from local land use plans and ordinances. This is concerning because it makes it unclear if the City will be able to apply duly enacted ordinances for 5G antennas, signs, and other uses that have and could occur within an ACHD right-of-way. If such ordinances were no longer applicable, the ACHD would make the final decision on the appropriateness of such uses outside of the processes and standards set forth in the LLUPA. This is concerning because it raises due process issues.

The Ada County Highway District claims that SB 1106 does not impact LLUPA responsibilities and authority because LLUPA does not apply to local highway districts. While there are some distinctions regarding "transportation systems," and a prohibition against contravening the grant of exclusive authority under state law to local highway jurisdictions concerning the highways and rights-of-way, it is incorrect to simply indicate that LLUPA does not apply to local highway districts. A municipality can pass an ordinance under LLUPA which is of general applicability. I.C. § 67-6528.

The Ada County Highway District also claims that LLUPA does not govern flood plain compliance or telecommunications. It is true that it is the federal government and not the states or local jurisdictions ultimately govern flood plain compliance and telecommunications, but SB 1106 is also in conflict with those federal laws. While highway districts may have exclusive general supervisory authority over all public streets and public rights of way under their jurisdiction within their district, they do not have exclusive general supervisory authority over all of its facilities in violation of federal, state (including LLUPA), and local regulations. See *City of Sandpoint v. Sandpoint Indep. Highway Dist.*, 126 Idaho 145, 879 P.2d 1078 (1994).

It is disingenuous when ACHD indicates that LLUPA does not apply to highway districts because ACHD's pending petition for judicial review against the City over denial of a CUP was filed pursuant to the judicial jurisdiction granted by LLUPA. LLUPA clearly applies to CUPs. If LLUPA does not apply to highway district CUPs, then the pending litigation against the City should be dismissed on that basis for lack of jurisdiction. Simply put, ACHD does not get to have it both ways. It does not take much "intellectual

integrity," as claimed by ACHD attorney Steve Price, to understand the interplay with SB 1106. And if SB 1106 requires a high level of "intellectual integrity" to interpret, that means it is confusing and subject to interpretation, which is what leads to litigation.

III.

IDAHO CODE § 46-1023 IS INAPPLICABLE TO SENATE BILL 1106

The ACHD has submitted on the record that I.C. § 46-1023 would prohibit essential facilities from remaining pursuant to SB 1106 if remaining would violate a local floodplain management ordinance. However, that distinction is not listed in SB 1106, and there is no legal authority or interpretation regarding I.C. § 46-1023. Additionally, this position is inconsistent with what ACHD has told the County of Ada and other local agencies.

According to Ada County, "...ACHD representatives have indicated that the sole purpose of the proposed legislation is to avoid the application of Garden City's land use authority over the Adams Yard Salt/Sand Shed." It has been clarified that the referenced ACHD representative is attorney Steve Price. Reportedly, Mr. Price told an Ada County Deputy Director and others in a Zoom meeting that the reason for the bill is because the City was requiring the Adams Salt Shed to comply with EPA regulations, but it was too expensive to move the facility. To date, ACHD has not verified on the record whether SB 1106 would prevent the removal of the ACHD salt shed within the limits of the City.

If ACHD truly believes that the SB 1106 exemption would not apply to ordinances pursuant to I.C. § 46-1023, it would or should have included that exemption, specifically in the bill. Assuming *arguendo*, whether the SB 1106 exemption would not apply to ordinances pursuant to I.C. § 46-1023 may be decided or controlled by the location of the floodplain ordinance in municipal code. Because the floodplain enabling power is not part of LLUPA, it may be important to know where the floodplain management ordinance is located in the local code, and whether there is a separate Floodplain Title in the code.

The City's floodplain ordinance is in the Development Code in the Design and Development Regulations Chapter (G.C.C. § 8-4H). It is the intent of the Development Code (Title 8) to, in part, carry out the purposes of the "'local land use planning act', I.C. § 67-6501 *et seq.*" G.C.C. § 8-1A-2. Similarly, Ada County's floodplain standards are part of its zoning ordinance, which ACHD is proposing an exemption from. If the zoning ordinance does not apply, ACHD could not be in violation of the zoning ordinance.

In practice, the way I.C. § 46-1023 is currently drafted, ACHD may not be required to remove a facility if it was in violation of a floodplain management ordinance. However, ACHD could still be enjoined in court from maintaining the facility. In addition, the facility would not be covered under any state or federal disaster relief if there was a flood. If SB 1106 were to pass, then the zoning ordinances would not apply to ACHD's essential facilities, and there would no longer be a violation of state or local ordinances.

However, if there is a federal overlay, such as with EPA requirements or FEMA, there could be wider-reaching consequences.

Interestingly, I.C. § 46-1023, which ACHD points to, is in the "Militia and Military Affairs" Title of the Idaho Code, in the "State Disaster Preparedness Act" Chapter. The stated policy and purpose of the State Disaster Preparedness Act Chapter is planning and preparing for disasters and emergencies, and it has been found necessary because of disasters and emergencies to: create and authorize an Idaho office of emergency management and local organizations for disaster preparedness, and prevent and reduce damage resulting from disasters; prepare for search and rescue, care and treatment; provide for restoration and rehabilitation; prescribe the roles of the various governmental entities (highway districts not listed); encourage cooperation and coordination between the governmental entities; provide a disaster management system; and to provide for payment of expenses. I.C. § 46-1003. The stated purpose of the State Disaster Preparedness Act is to: protect human life, health, and property; preserve floodplains for the purpose of carrying and storing flood waters; reduce public cost of providing emergency services, flood control structures and rebuilding public works damaged by floods; protect the tax base and jobs; reduce the threat of increased damage; encourage orderly development and wise use of floodplains; minimize business interruptions; and prevent increased flooding and erosion caused by improper development. I.C. § 46-1020. Idaho Code § 46-1023 is regarding the State Disaster Preparedness Act and not highway districts, salt sheds, or LLUPA.

Essentially, the State Disaster Preparedness Act Chapter in the Idaho Code, wherein I.C. § 46-1023 lies, is regarding disaster emergency plans and not highway districts. The Sections within the State Disaster Preparedness Act Chapter are: short title, definitions, and policy and purpose; Idaho office of emergency management created; coordinating officer – selection; disaster emergency account; powers and duties of chief and office; limitations; the governor and disasters emergencies; local and intergovernmental disaster agencies and services; intergovernmental arrangements; local disaster emergencies; compensation; communication; mutual aid; weather modifications; liability for property damage, bodily injury or death; immunity; interstate mutual aid compact; emergency management assistance compact; emergency responses [repealed]; purpose and findings; definitions; local governments may adopt flood-plain zoning ordinances; enforcement and sanctions; severability; federal funds to political subdivisions; definitions; and military division – Idaho office of emergency management – additional powers and duties. Accordingly, I.C. § 46-1023 is intended to address militia and military affairs, and governmental responsibilities, when preparing for emergencies and disasters. Perhaps this is the reason why there is no legal authority or interpretation that indicates I.C. § 46-1023 would prohibit the proposed highway district exception to local regulation in SB 1106, if there is a local floodplain ordinance within the zoning code, even though I.C. § 46-1023 has been around since 1998. As SB 1106 is currently written, I.C. § 46-1023 likely would not prohibit facilities from remaining, and at a minimum, would create a variance, discrepancy, ambiguity, and confusion, which is what often triggers litigation.

IV.

SENATE BILL 1106 NEGATIVELY DIMINISHES COUNTY AND CITY AUTHORITY

The Statement of Purpose for Senate Bill 1106 indicates that:

1. The current requirement for land use agencies to "take into account the plans and needs" of the Idaho Transportation Department (ITD) is inadequate; and
2. The exceptions for ITD transportation facilities from local land use plans and ordinances should be extended to local highway jurisdictions because they have the same needs as ITD.

While it is unclear if ITD indeed finds the present law inadequate, as stated above, ACHD representative Steve Price has indicated that the sole purpose of the proposed legislation is to avoid the application of Garden City's land use authority over the Adams Yard Salt/Sand Shed. It is concerning that ACHD is pursuing SB 1106 without collaborating with the cities of and counties, rather than focusing on alternate options that satisfy land use plans, ordinances, and standards. One of the main tenets of LLUPA is public participation, but public participation would not be required in determining what is an "essential facility." The purpose of LLUPA and the Comprehensive Plan cannot be accomplished without consideration of local transportation networks.

Regardless of ACHD's claims, SB 1106 would change state law, allowing highway districts to avoid the land-use authority of local jurisdictions. The actual purpose of the bill is to remove city and county authority regarding local land use planning. The way SB 1106 is written, it can apply to many things, such as subdivision standards. As to standalone small cell poles if an essential facility, for example, cities and counties would not have the ability to regulate the location, zone preference, spacing of poles, height, and aesthetics. City and county authority regarding local land use planning should not be removed by the passage of SB 1106.

V.

THE TERMS "ESSENTIAL FACILITIES" AND "EXISTING" ARE AMBIGUOUS

The proposal leads to *de facto* land use authority for the establishment of "essential facilities" and what is "existing" by the ACHD, without due process and public involvement. Arguably, this will give highway districts the ability to approve private uses in their rights-of-way, without approval from the local communities.

If the proposed bill becomes law, any facility ACHD deems "essential" and "existing" will no longer be subject to the land use plans, ordinances, and standards adopted by any of the local jurisdictions. ACHD could construct any "essential" facility regardless of location without any land use consideration by the applicable jurisdiction. For example, the ACHD could put a gravel pit in the middle of a subdivision if it were deemed "essential" and "existing."

Although current iterations of the proposed bill indicate that ACHD would be required to “collaborate” with local jurisdictions when it comes to “essential” facilities, ACHD would make the final decision on whether something was an “essential” facility. Such a land-use decisions should be carried out by the appropriate local jurisdiction in compliance with LLUPA. Moving the land use decision outside of the processes and standards set forth in LLUPA means public involvement and public processes could be lacking. The public and surrounding property owners will also not be able to rely on the afforded protections in LLUPA, following a land-use decision by the ACHD on an “essential” facility.

The term “essential facility” is ambiguous without a definition. The term is not defined in LLUPA or in Title 40. Idaho Code § 40-107(1) defines “facilities” as “tracks, pipes, mains, conduits, cables, wires, towers, poles, equipment, and appliances.” Are some facilities “essential” and some are not? Or are essential facilities something completely different (everything that is not a road)? Under SB 1106, “essential facilities” are whatever the ITD board or local highway agency board determine they are. Additionally, the term “existing” does not clearly indicate that a future property cannot later become “existing.” Clearly, there is a need for a definition of “essential facilities” and “existing.” Terms without definitions are problematic.

VI.

SENATE BILL 1106 COMPROMISES AND IS INCONSISTENT WITH FEDERAL MANDATES

First, SB 1106 is inconsistent with federal mandates. The National Flood Insurance Program (NFIP) does not have “essential facilities” – it has “critical facilities”:

Critical Facilities: facilities that are vital to flood response activities or critical to the health and safety of the public before, during, and after a flood, such as a hospital, emergency operations center, electric substation, police station, fire station, nursing home, school, vehicle, and equipment storage facility, or shelter; and facilities that, if flooded, would make the flood problem and its impacts much worse, such as a hazardous materials facility, power generation facility, water utility, or wastewater treatment plant.

Second, transportation agencies are not exempt from compliance with floodplain regulations. However, as a local jurisdiction's floodplain regulations are typically part of the adopted ordinances that SB 1106 would exempt transportation agencies from, it remains unclear how said regulations could be administered. This leads to the concern of the potential that a transportation agency would proceed with or retain improvements that violate floodplain standards, thus adversely affecting surrounding property owners or the jurisdiction in general.

If the law is passed, ACHD could determine that a facility is an “essential” and retain it in its current location and configuration. The local agency would then no longer be able to

apply adopted land use and floodplain regulations (and other federal regulations) leaving the City with a use/structure that does not comply with the higher level of flood protection required for critical facilities. With no way to remedy the deficiency, the local agency may be forced to accept a non-compliant use/structure that could affect its Community Rating System Classification and Flood Insurance Rates resulting in an adverse impact to the City and its residents.

Additionally, the federal government requires all flood ordinances to have the clause below:

Article III. Section E. Abrogation and Greater Restrictions

This ordinance shall not in any way repeal, abrogate, impair, or remove the necessity of compliance with any other laws, ordinances, regulations, easements, covenants, or deed restrictions, etcetera. However, where this ordinance and another conflict or overlap, whichever imposes more stringent or greater restrictions shall control.

Senate Bill 1106 would create a variance on its face with these federal requirements.

The proposal makes it unclear how floodplain regulations can be applied to transportation agencies jeopardizing the ability of local jurisdictions to comply with local and federal standards. Pursuant to SB 1106, local communities could not ensure transportation systems and "essential facilities" (as determined by the highway district) meet floodplain regulations without jeopardizing the eligibility of the community in the National Flood Hazard Insurance Program. SB 1106 would restrict the eligibility of the community to apply for FEMA disaster funds and property owners to obtain flood insurance. Therefore, SB 1106 is inconsistent with federal mandates.

VII.

NEGATIVE IMPACT ON DEVELOPMENT

Finally, there can be unintended consequences when highway districts shortcut the normal process for floodplain development. Some of the consequences happen when a bridge or culvert is constructed in a regulatory floodway and no Letter of Map Revision (LOMR) or Conditional Letter of Map Revision (CLOMR) is prepared. Any landowner is required to conduct normal floodplain development procedures. If a landowner is near a bridge that has no LOMR or CLOMR, the landowner may have to include the bridge or culvert in their application. Reportedly, in a number of cases, FEMA has reviewed the situation and did not process the LOMR/CLOMR application until an apparent violation (a bridge in the floodway for example) is cleared. This can cause delays, sometimes significant, to new development.


Recently, a project allegedly resulted in the landowner upstream having their project delayed for more than a year, and it will likely be two years until they obtain approval from FEMA, to construct their development. These examples are unfortunate and in the current housing market, can significantly damage a developer. The solution is simple:

the highway districts should remain required to follow the same rules the public is required to follow.

VIII.
CONCLUSION

The City is concerned that the proposed language in SB 1106 may increase the separation of transportation and land use planning efforts, making it more difficult for local jurisdictions to have any significant voice in the planning of transportation facilities within their boundaries. This will also make it difficult to meet the mandates and maintain the rights and protections set forth by the federal government and LLUPA. To illustrate this point, a special public meeting was noticed and conducted by ACHD on March 8, 2021. At this special meeting, it was clear that the five ACHD Commissioners were not unified, but rather divided, on whether SB 1106 should proceed to hearing as it is currently written. Even ACHD elected officials have questions and doubts. Accordingly and respectfully, the City submits that SB 1106 should not pass.

Sincerely,


Charles I. Wadams
City Attorney

TITLE 40 HIGHWAYS AND BRIDGES
CHAPTER 14
SINGLE COUNTY-WIDE HIGHWAY DISTRICTS

40-1415. RESPONSIBILITIES OF SINGLE COUNTY-WIDE HIGHWAY DISTRICTS WITHIN CITIES - FINAL DECISION ON URBAN RENEWAL PROJECTS - SETTLEMENT OF QUESTIONS. (1) County-wide highway districts organized under the provisions of this chapter, within the limits of any city shall be responsible for the design, construction, reconstruction and maintenance of city rights-of-way and accompanying curbs, gutters, culverts, sidewalks, paved medians, bulkheads and retaining walls. Within city rights-of-way, design, construction, reconstruction and maintenance shall include:

(a) Traffic and safety engineering for both motorist and pedestrian traffic;

(b) Procurement and installation of highway lighting where it is primarily of benefit to the motorist. Energy costs and maintenance of lighting shall subsequently be a function of the city;

(c) Procurement, installation, operation and maintenance of traffic control devices where they are needed for traffic control; and

(d) Drainage where it is necessary for motorist safety or necessary for right-of-way maintenance.

(2) Acquisition and acceptance of rights-of-way shall be the responsibility of the county-wide highway district.

(3) In matters of urban renewal projects, the city involved shall make the final decision concerning approval of the project based on the overall plan of the city. Prior to approval of an urban renewal project, the city shall submit the plan to the highway district for review and recommendations in accordance with subsection (1) of this section. The highway district shall submit its written recommendations with respect to the proposed urban renewal plan to the city within thirty (30) days after receipt of the plan for review. Upon receipt of the recommendations of the highway district, or if no recommendations are received within thirty (30) days, then the city may proceed without recommendations with the hearing on the proposed urban renewal project, and the highway district shall not be responsible, as between the city and the highway district, for funding the district's responsibilities as provided by subsection (1) of this section, unless otherwise agreed by the city, highway district, and urban renewal agency pursuant to section 50-2908(2)(a)(iv), Idaho Code; however, the highway district will remain responsible for funding the district's maintenance responsibilities required under subsection (1) of section

regardless of whether an agreement is entered into pursuant to section 50-2908(2)(a)(iv), Idaho Code. Agreements entered into by a city pursuant to an urban renewal project prior to dissolution of the city highway system and organization of the successor highway district shall be binding upon the county-wide highway district.

(4) The highway district shall be responsible for planning and location of rights-of-way. In planning for and determining location of rights-of-way, the highway district shall submit to the appropriate planning agency the proposed location of the rights-of-way. In locating rights-of-way the highway district shall take into consideration the comprehensive general plan of the appropriate county or city planning agency. In planning for the location of rights-of-way, the highway district shall comply with all appropriate provisions of chapter 65, title 67, Idaho Code.

(5) The city shall retain jurisdiction and responsibility for outstanding local improvement district bonds or warrants sold or issued by the city prior to dissolution of the city highway system and organization of the successor highway district.

(6) All subdivision plats required to be submitted for acceptance and approval to the city and the county under the provisions of chapter 13, title 50, Idaho Code, shall be submitted to the highway district for consideration for acceptance and approval as to continuity of highway pattern, widths, drainage provisions, right-of-way construction standards, traffic flow, the traffic volume demand occasioned by the proposed subdivision either within or without the boundaries of the proposed subdivision, and other matters pertaining to the function of the highway district.

(7) Within the limits of any city, the city may expend city funds for the placement, care and removal of trees, shrubs, grass, and other plants, which are located within the rights of way of any highway of the county-wide highway district.

(8) A city, after advising the board of highway district commissioners of its intent, shall be responsible for the placement, care and removal of any parking meters within the limits of any city, and for the enforcement of ordinances regulating the use of parking meters, which are located within the rights-of-way of any highway of the county-wide highway district. The city shall be entitled to all of the revenues received from parking meters.

History:

[40-1415, added 1985, ch. 253, sec. 2, p. 662.]

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AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, March 10, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Gubernatorial Appointment Vote	Committee Vote of the Gubernatorial Appointment of Jefferson McCray, State Tax Commission	Chairman Rice
<u>H 210</u>	Relating to Sales and Use Tax; Regarding the Applicability of the Sales and Use Tax to Certain Nonresidents Purchasing Vehicles in Idaho	Representative Gestrin
<u>H 171</u>	Relating to Sales Tax; Regarding Sales Tax Exemption and Resale Certificates	Representative Gibbs
<u>H 217</u>	Relating to Income Taxes; Regarding Evidence of Taxpayer Expenditures	Representative Manwaring

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice
Vice Chairman Grow
Sen Vick
Sen Lakey
Sen Souza

Sen Bayer
Sen Ricks
Sen Nye
Sen Rabe

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, March 10, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:02 p.m.

MOTION ON GUBERNATORIAL APPOINTMENT: **Senator Nye** moved to send the Gubernatorial appointment of Jefferson McCray to the State Tax Commission (Commission) to the floor with recommendation that he be confirmed by the Senate. **Senator Souza** seconded the motion.

DISCUSSION: **Senator Rabe** related to the Committee that she was impressed with Mr. McCray's background but was concerned regarding his lack of experience. She reminded the Committee of Senator Grow's apprehension from the prior meeting, during which he expressed concern regarding the lack of Certified Public Accountants (CPA) on the Commission. **Chairman Rice** informed the Committee that there currently was not a CPA on the Commission.

VOTE ON GUBERNATORIAL APPOINTMENT: The motion to send the Gubernatorial appointment of Jefferson McCray to the State Tax Commission to the floor with recommendation he be confirmed carried by **voice vote**.

H 210 **Relating to Sales and Use Tax; Regarding the Applicability of the Sales and Use Tax to Certain Nonresidents Purchasing Vehicles in Idaho.** **Representative Terry Gestrin** presented **H 210**, explaining that it was written due to a change in practice by auditors of the Commission. **Representative Gestrin** gave each Committee member a copy of form ST-104NR, Sales Tax Exemption Certificate, Nonresident Vehicle/Vessel (see Attachment 1). **Representative Gestrin** explained to the Committee that Form ST-104NR is used when an out-of-state person or entity purchases a vehicle/vessel in Idaho. The purchase is made in the State of Idaho and the item is taken to the state of residence or operation where the fees are paid. **Representative Gestrin** stated that Form ST-104NR details what a nonresident is, and clarifies what vehicles/vessels are included. **H 210** was drafted due to properly exempt out of state individuals or entities receiving a tax bill after making an Idaho purchase. **H 210** includes a simple requirement that corporations and other organizations are treated as nonresident individuals for the purpose of sales tax collection.

DISCUSSION: **Senator Souza** questioned what had created the circumstance in which sales tax was being charged to out-of-state individuals. **Representative Gestrin** responded that confusion was created when an out-of-state business had an online presence in Idaho. The internet allows business to be completed across state lines, creating the perception of a state-based business, he said.

MOTION: **Senator Vick** moved to send **H 210** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

H 171

Relating to Sales Tax; Regarding Sales Tax Exemption and Resale Certificates. **Senator Mark Harris** presented **H 171**, explaining that it shifts the obligation of proving a sales tax exemption from the retailer to the purchaser. **Senator Harris** added that **H 171** also provides that the purchaser bears the liability of any subsequent audit of the transaction and the seller shall remain harmless. **Senator Harris** explained that currently, retailers must prove why they did not charge sales tax on an item. This has forced retailers to act as state tax collectors, for which they are not compensated. **H 171** will place the burden of proof on the purchaser. **Senator Harris** clarified that if there is any loss of revenue to the Commission from **H 171**, it would be a result of the Commission currently collecting more than it should. **H 171** does not increase the amount of exemptions allowed by the Commission.

DISCUSSION:

Senator Rice informed the Committee that the Commission desired **H 171** be amended to include the federal employer identification number, or driver's license number and state of issue, to the exemption certificate. **Senator Harris** replied that amendment could easily be made.

Senator Ricks questioned how **H 171** would be enforced, as it is easy to go online and fill out a form for sales tax exemption. **Senator Harris** explained that it may create more work for the Commission, but the goal was to remove responsibility from the retailer. Enforcement and any resulting fine would be focused on the individual involved in the transaction, he said.

MOTION:

Senator Souza moved to send **H 171** to the 14th Order of Business for possible amendment. **Senator Nye** seconded the motion. The motion carried by **voice vote**.

H 217

Relating to Income Taxes; Regarding Evidence of Taxpayer Expenditures. **Representative Dustin Manwaring** explained that **H 217** is a new section of taxpayer-friendly code and introduced Representative James Ruchti to present it to the Committee. **Representative Ruchti** related how helpful the legislation would be to taxpayers, bringing evidence of expenditures into today's world of technology. **H 217** creates a rebuttal presumption for claiming deductions from credit card receipts. Rebuttal presumption is an assumption taken to be true unless someone contests it and can prove otherwise. **H 217** shifts the burden of proof of expenditures to the Commission.

DISCUSSION:

Senator Grow indicated to the Committee members that he strongly supported **H 217**. **Senator Vick** questioned if the information required was sufficient for federal taxes. **Representative Ruchti** replied that **H 217** applied to Idaho taxes only.

MOTION:

Senator Grow moved to send **H 217** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:38 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

Form ST-104NR
Sales Tax Exemption Certificate
Nonresident Vehicle/Vessel

Buyer's Name			Seller's Name		
Address			Address		
City	State	ZIP Code	City	State	ZIP Code
Vehicle/Vessel Year	Vehicle/Vessel Make	Vehicle/Vessel Model	Hull or Vehicle Identification Number		

Nonresident Exemption

(Idaho Code section 63-3622R and Idaho Sales and Use Tax Administrative Rule 107)

A vehicle or vessel that a nonresident purchases in Idaho may qualify for exemption from Idaho sales tax.

Nonresident individuals can claim the exemption if they meet **all** of the following requirements:

- The intended use of the vehicle/vessel is outside of Idaho, and it won't require titling in Idaho.
- It will be taken out of Idaho and immediately registered and titled in another state or country (if required there).
- It won't be stored or used in Idaho for more than 90 days in any 12-month period.
- None of the buyers listed on the purchase, registration, or title documents are Idaho residents.

Nonresident corporations, partnerships, limited liability companies, or other organizations can claim the exemption if they meet all the requirements listed above **and all** of these additional requirements:

- It isn't formed under the laws of Idaho.
- It isn't required to be registered with the Idaho Secretary of State to do business in Idaho.
- It doesn't have significant contacts with Idaho and doesn't have consistent operations in Idaho.
- None of the buyers listed on the purchase, registration, or title documents are Idaho residents.

Each buyer listed on the purchase, registration, or title documents must complete a separate form. You can't claim this exemption if an Idaho resident is listed on the exemption certificate, purchase, registration, or title documents. Truck campers, vessels less than 11 feet sold without a motor, and canoes, kayaks, paddleboards, inflatable boats or similar watercrafts sold without a motor, don't qualify for this exemption.

Buyer: You must meet **all** requirements listed above and complete **all** statements below to claim the exemption.

- I'm buying a(n):

<input type="checkbox"/> Automobile	<input type="checkbox"/> Snowmobile	<input type="checkbox"/> Vessel without a motor, 11' or more in length
<input type="checkbox"/> Motorcycle	<input type="checkbox"/> All-terrain vehicle (ATV)	<input type="checkbox"/> Vessel with a motor, regardless of length
<input type="checkbox"/> Truck	<input type="checkbox"/> Specialty off-highway vehicle (SOHV)	
<input type="checkbox"/> Trailer	<input type="checkbox"/> Utility type vehicle (UTV)	
- I'm not an Idaho resident, and I'll limit the storage or use of the vehicle or vessel in Idaho to 90 days or less in any 12-month period.
- I'll take this vehicle to the state or country of _____ and immediately register and title it, if required.
- None of the buyers listed on the purchase, registration, or title documents are Idaho residents.
My nonresident driver's license number is _____ issued by the state or country of _____, or qualifying company/organization EIN is _____.

Seller: Scan and email the completed form and a copy of the driver's license to **vehicles@tax.idaho.gov**. Or, send the documents to the Idaho State Tax Commission, Tax Discovery Bureau, PO Box 36, Boise, Idaho 83722. Keep a copy for your records.

By signing this form, I certify that the statements I made on this form are true and correct. I know that submitting false information can result in criminal and civil penalties.

Buyer's Signature	Buyer's Name (please print)	
Title	Phone Number	Date

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, March 11, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approve the Minutes of March 3, 2021	Senator Ricks
H 156	Relating to Development Impact Fees; To Revise Definitions	Representative Nichols
H 252	Relating to Agricultural Land Assessment; Regarding Assessment of Land Actively Devoted to Agricultural	Representative von Ehlinger
H 276	Relating to Income Taxes; Regarding Business Depreciation Income Tax Deductions	Ken McClure, Givens Pursley LLP
H 277	Relating to the Board of Tax Appeals; To Provide for Taxpayer Representation in a Hearing	Representative Moyle

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice	Sen Bayer
Vice Chairman Grow	Sen Ricks
Sen Vick	Sen Nye
Sen Lakey	Sen Rabe
Sen Souza	

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, March 11, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:01 p.m.

MINUTES APPROVAL: **Senator Ricks** moved to approve the Minutes of February 3, 2021. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

H 156 **Relating to Development Impact Fees; To Revise Definitions.** **Representative Tammy Nichols** presented **H 156**, explaining that adding stations and apparatus to the definition of public safety facilities will clarify that fire stations are eligible to collect impact fees. **Representative Nichols** informed Committee members **H 156** was classifying apparatus as equipment, tools, or machines for a particular purpose.

DISCUSSION: **Senator Ricks** questioned if **H 156** would affect impact fees. **Representative Nichols** replied that it would not.

MOTION: **Senator Nye** moved to send **H 156** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

H 252 **Relating to Agricultural Land Assessment; Regarding Assessment of Land Actively Devoted to Agriculture.** **Representative Aaron von Ehlinger** presented **H 252**, explaining that it would solve the problem of county assessors assessing agricultural land as residential or commercial property. **Representative von Ehlinger** gave an example to the Committee of a farmer's field that consists of pivot corners that may not be currently planted with crops. He emphasized that it is still agricultural land, not commercial or residential, and **H 252** will guarantee it is assessed as such. **Representative von Ehlinger** stated that **H 252** would also include land that is adjacent to a farmer's field and currently stores agricultural equipment. **H 252** is meant to clarify what is considered agricultural land before more problems occur with assessments.

DISCUSSION: **Senator Ricks** pointed out that farmers may build a house, or allow a family member to build, on a corner area of their property. A shop built on a small section of farmland may be used for some type of manufacturing also. **Senator Ricks** questioned how **H 252** would affect those types of situations. **Representative von Ehlinger** responded that any residential structure would always be classified as residential property, and a shop that was not storing agricultural equipment while being used for any other business would be considered commercial property. **H 252** refers to land devoted to agricultural use only, but if the land consists of pivot corners, for a center pivot irrigated crop, or is difficult to farm due to terrain, it would still be considered agricultural. **H 252** does not provide for houses or other commercial structures, he said.

Senator Lakey pointed out that declaring a piece of property difficult to farm due to terrain is ambiguous language that provides an opportunity for abuse. **H 252** could allow a large piece of property to earn the exemption because of storage equipment, while primarily being used for something else. **Senator Lakey** objected to the term "difficult" as being too broad. "Difficult" means the property can still be farmed, it is just more challenging, he said.

Chairman Rice asked Representative von Ehlinger if he would object to adding language stating the land would not be used for any purpose other than agriculture. **Representative von Ehlinger** was in agreement with the language addition.

Senator Nye commented that **H 252** specifies that "tandem" means land not severed from the property or, if severed, land used to support the agricultural use of the qualifying property. **Senator Nye** questioned if the tandem property could be 5 miles away, or even in another county. **Representative von Ehlinger** replied that in his opinion it would not be, but acknowledged it could be possible. **Senator Souza** expressed her observation that Representative von Ehlinger was overly optimistic on how **H 252** would function. **Senator Ricks** related that he understood the intent of **H 252**, but believed adjustments to the language were necessary.

MOTION: **Senator Ricks** moved to send **H 252** to the 14th Order of Business for possible amendment. **Senator Bayor** seconded the motion. The motion carried by **voice vote**.

DISCUSSION: **Chairman Rice** informed the Committee they would hear **H 277** at this time, instead of **H 276**, as listed on the agenda.

H 277 **Relating to the Board of Tax Appeals; To Provide for Taxpayer Representation in a Hearing.** **Representative Mike Moyle** presented **H 277**, explaining to the Committee that while reviewing rules of the Board of Tax Appeals (BTA), he had identified a rule that should be revised. Rule 30 of the Idaho BTA Rules stipulates that if an individual goes before the BTA, they can only be represented by themselves or an attorney. **Representative Moyle** pointed out that if an individual has an appeal before the Internal Revenue Service, they can be represented by their accountant, appraiser, or themselves. Rule 30 forces someone with limited mobility, unable to represent themselves, to hire an attorney, he said. **Representative Moyle** stated that **H 277** allows the individual the right to be represented by themselves, or someone of their own choosing, before the BTA in the State of Idaho.

MOTION: **Senator Bayor** moved to send **H 277** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

H 276 **Relating to Income Taxes; Regarding Business Depreciation Income Tax Deductions.** **Ken McClure**, Givens Pursley LLP, representing the Idaho Society of Certified Public Accountants (CPAs), presented **H 276**. **Mr. McClure** explained that the bill deals with what happens when the State of Idaho does not adopt and conform to all the provisions in the federal Internal Revenue Code. He detailed that the federal government instituted bonus depreciation, a form of accelerated depreciation that allows assets to be written off more quickly. **Mr. McClure** stated that Idaho did not adopt bonus depreciation at the time, as the cost of conforming was too great.

Mr. McClure explained to the Committee members that one of the problems arising from Idaho not conforming to the federal tax code is "phantom income," or income that is not actually economically received. **Mr. McClure** informed the Committee that depreciation not allowed as a deduction in Idaho due to nonconforming with the Internal Revenue Code is then added back to the Idaho taxable income. Individuals are required to recognize it as income for Idaho and be taxed on it. Also, if an asset is disposed of, the individual will pay a higher-than-appropriate amount of capital gains on the sale as a result, he said.

TESTIMONY: **Matthew Grow**, CPA, Boise, provided to the Committee an example of the technical problems that **H 276** is intended to solve with regard to passive activity. Passive activity means someone has an ownership interest in a business but is not running it day to day. A business is created, but the person responsible for the day to day operation is unable to support the business financially. An equity partner loans money to the business which is used to purchase equipment. There is no income to the business the first year, but they have the cost of the equipment. The federal bonus depreciation provisions allow them to deduct the full amount of the equipment, resulting in a net loss for the year. That loss is allocated to the passive investor because of their economic interest. Federal passive activity loss rules say they are not allowed to take the cost of the equipment, disallowing the bonus depreciation in the current year, and returning the net income to zero. Current Idaho tax law will add back the bonus depreciation, resulting in a change from a no income loss to a net income in the amount of the equipment. That income is now taxable income for Idaho purposes to the extent of the federal bonus depreciation.

DISCUSSION: **Senator Bayer** requested an explanation of what **H 276** accomplishes. **Mr. Grow** responded that in summary, **H 276** provides that Idaho will not add back as taxable income the depreciation that has been deducted on a federal return.

TESTIMONY: **David Cooper**, CPA, informed the Committee members that he had over 45 years experience in public accounting and was a founding partner of Cooper Norman, a company consisting of CPAs in eastern and southern Idaho. **Mr. Cooper** explained that he originally discovered the issue created from not conforming to the federal code and brought it to the attention of the Idaho Society of CPAs. They determined it was an issue that should be brought before the Idaho Legislature.

MOTION: **Senator Souza** moved to send **H 276** to the floor with a **do pass** recommendation. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, Chairman Rice adjourned the meeting at 3:58 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

AMENDED AGENDA #1
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, March 17, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approve the Minutes of March 4, 2021	Senator Lakey
Minutes	Approve the Minutes of March 9, 2021	Senator Grow
<u>H 317</u>	Relating to Income Taxes; To Provide for the Treatment of State and Local Taxation Deductions for Affected Business Entities	Jason Kreizenbeck, Ball Ventures, LLC

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice	Sen Bayer
Vice Chairman Grow	Sen Ricks
Sen Vick	Sen Nye
Sen Lakey	Sen Rabe
Sen Souza	

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, March 17, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: Senator Lakey

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:00 p.m.

MINUTES APPROVAL: **Vice Chairman Grow** moved to approve the Minutes of March 4, 2021. **Senator Nye** seconded the motion. The motion carried by **voice vote**.
Vice Chairman Grow moved to approve the Minutes of March 9, 2021. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

H 317 **Relating to Income Taxes; To Provide for the Treatment of State and Local Taxation Deductions for Affected Business Entities.** **Jason Kreizenbeck**, Ball Ventures LLC, informed the Committee that he would turn the presentation of **H 317** over to Brian Parkinson, also of Ball Ventures. **Mr. Parkinson** explained that, historically, state and local taxes (SALT) were deductible as an itemized deduction on a tax return. The Tax Cuts and Jobs Act (TCJA) of 2017 placed a \$10,000 limitation on SALT deductions. Small business owners were no longer able to deduct taxes as a result.
Mr. Parkinson explained that the Internal Revenue Service recognized the unintended consequences and, in November 2020, stated that small business owners could deduct taxes paid under state law. **H 317** will allow owners, partners, members, and shareholders of electing partnerships, LLCs and S corporations (PTEs) to deduct SALT paid at the PTE level rather than as an itemized deduction on their individual return.
Mr. Parkinson informed the Committee members **H 317** is taxpayer-friendly and revenue-neutral for Idaho, but will stimulate local economies. He explained that every federal tax dollar saved can be used for goods, services, and wages in Idaho.
Mr. Kreizenbeck requested the Committee refer to the handout he provided. The basic, practical function of **H 317** was explained in more detail with several examples in the handout. (See Attachment 1)

TESTIMONY: **Ken McClure**, Idaho Society of Certified Public Accountants, testified in support of **H 317**. He stated the original intent of the TCJA was to assist individuals, not businesses. **H 317** is good for smaller taxpayers, he said.

MOTION: **Vice Chairman Grow** moved to send **H 317** to the floor with a **do pass** recommendation. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:21 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

Information & Examples for consideration of HB 317

Prepared by Brian Parkinson, Ball Ventures, LLC

Who does it impact?

This bill will impact owners, partners, members, and shareholders of electing partnerships, LLCs and S corporations (PTEs).

How does it impact those mentioned?

It allows owners, partners, members, and shareholders of electing in partnerships, LLCs and S corporations (PTEs) to deduct SALT paid at the PTE level rather than as an itemized deduction on their individual return, which is limited to a \$10,000 deduction.

What does that mean for the taxpayer?

Depending on the marginal tax rate of the taxpayer, it provides a tax benefit as high as 2.56% per dollar of income.

EXAMPLE 1 \$1,000,000 Taxable Income from PTE:

For example, a taxpayer who is a partner in a partnership that has \$1,000,000 in taxable income from his pass-thru share of the partnership income who pays individual state taxes of \$69,250 (Idaho's marginal rate of 6.925%) and pays local property taxes of \$5,000 will have total state taxes of \$74,925. Without legislation enacted to allow for a PTE workaround, the \$74,925 paid is limited to a \$10,000 deduction for federal tax purposes, limiting the income tax deduction for state income taxes paid to \$5,000 after the property tax. If the state has enacted legislation allowing the SALT workaround, the taxpayer is able to elect to pay the same \$69,250 of tax to the state and will receive a deduction at the entity level reducing the amount of pass-thru income reported on the federal return by the full \$69,250 – an additional deduction of \$64,250 versus no workaround enacted. Assuming a federal tax rate of 37%, this represents \$23,773 savings in tax dollars paid to the federal government that can then be used by the business owner to invest in the state economy providing more jobs and revenues to the state.

EXAMPLE 2 \$200,000 Taxable Income from PTE:

Another example for a more moderate income level. A taxpayer who is a partner of a partnership that has \$200,000 of income from his pass-thru share of the partnership income who pays individual state taxes of \$13,850 (Idaho's marginal rate of 6.925%) and pays local property taxes of \$5,000 will have total state taxes of \$18,850. Without a legislation enacted to allow for a PTE workaround, the \$18,850 paid is limited to a \$10,000 deduction for federal tax purposes – limiting the income tax deduction for state income tax to \$5,000 after the property tax). If the state has enacted legislation allowing the SALT workaround, the taxpayer is able to elect to pay the same \$13,850 of tax to the state and will receive a deduction at the entity level reducing the amount of pass-thru income reported on the federal return by the full \$13,850 an

additional deduction of \$8,850 versus no workaround enacted. Assuming a federal tax rate of 24%, this represents \$2,124, savings in tax dollars paid to the federal government that again can then be used by the business owner to invest/spend in the state economy providing more jobs and revenues to the state.

EXAMPLE 3 \$50,000 Taxable Income without Itemizing Deductions:

If an individual does not itemize deductions (typically those individuals without mortgage interest and charitable contributions in addition to the allowable \$10,000 SALT deduction totaling \$24,000), the taxpayer is not limited to a \$10,000 state tax deduction, but rather receives NO benefit for the state taxes paid whatsoever. Again, the workaround allows those individuals to receive a deduction for taxes paid at the PTE level. A taxpayer with \$50,000 taxable income from their share of pass-thru income from a PTE that elects to pay \$2,648 in state PTE taxes would save \$351 in federal income tax.

What is the impact to state revenue?

None. This bill is revenue-neutral. The state will receive the same revenue whether the income tax is collected on the pass through income taxed at the individual level or income taxed at the PTE level.

Link to IRS Rev Proc 2020-75:

<https://www.irs.gov/newsroom/irs-provides-certainty-regarding-the-deductibility-of-payments-by-partnerships-and-s-corporations-for-state-and-local-income-taxes>

States with SALT Workaround Legislation – UPDATE

From our research, to date we know of 8 others states that have legislation similar to this. Of those 8 states, 7 bills are reportedly Revenue Neutral, 1 is Revenue Positive. Of the additional 6 states we know have proposed similar legislation, 4 states are considering Revenue Neutral bills, 1 is considering a Revenue Positive bill.

At this point these eight states that have enacted similar legislation include: Alabama (Revenue Neutral), Connecticut (State Revenue Positive), Louisiana (Revenue Neutral), Maryland (Revenue Neutral), New Jersey (Revenue Neutral), Oklahoma (Revenue Neutral), Rhode Island (Revenue Neutral), and Wisconsin (Revenue Neutral).

At least six more states have proposed legislation: Arkansas (Revenue Neutral), Michigan (State Revenue Positive), Minnesota (Revenue Neutral), California (Revenue Neutral), and New York (Revenue Neutral).

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, March 18, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Page Graduation	Graduation of the Local Government and Taxation Committee Page for the Second Half of the Legislative Session, Colton Rietema of Wilder, Idaho	Chairman Rice
<u>H 309</u>	Relating to Property Taxes; To Revise Provisions Regarding the Interest Rate on Property Tax Deferrals	Senator Grow

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice	Sen Bayer
Vice Chairman Grow	Sen Ricks
Sen Vick	Sen Nye
Sen Lakey	Sen Rabe
Sen Souza	

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, March 18, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:03 p.m.

PAGE GRADUATION: **Chairman Rice** honored Page Colton Rietema from Wilder, Idaho. **Mr. Rietema** thanked the Committee for the opportunity to serve. He informed the members he would be working with a local beekeeper, Jonathan Millet, for the summer, continuing his education with beekeeping and hives. **Senator Lakey** asked what most surprised him about his time at the Senate. **Mr. Rietema** stated that finding the Senators to be real people with a genuine sense of humor was a nice surprise.

Chairman Rice expressed the gratitude of the Committee for Mr. Rietema's service, giving him a letter of appreciation signed by the members. He also gave him several gifts from the Committee, as well as a letter of recommendation.

H 309 **Relating to Property Taxes; To Revise Provisions Regarding the Interest Rate on Property Tax Deferrals.** **Vice Chairman Grow** presented **H 309**, informing the Committee that it was intended to assist the elderly, who have been unduly affected by property tax increases. He explained that a property tax deferral bill was passed in 2006 but is rarely used. **H 309** would raise the income limit detailed in the 2006 legislation to \$50,000 and change the interest rate to the variable rate used by the State Tax Commission (Commission). **Vice Chairman Grow** reported that the Commission stated there would be no limit on the amount of property tax to be paid. He used a hypothetical example of a couple subsisting on Social Security living in an expensive home. They do not wish to move, but their taxes could be much more than they are able to afford on a limited budget. **H 309** would allow the Commission to pay their property taxes, with the amount becoming a lien on their home. When the home is sold, the Commission will be repaid, **Vice Chairman Grow** said.

DISCUSSION: **Senator Ricks** questioned if the hypothetical family would still have the ability to purchase the home. **Vice Chairman Grow** responded that the family could pay the lien at any time. He clarified that the program would not be available to a homeowner with a reverse mortgage. **Senator Bayer** questioned the interest rate that would be used with **H 309**. **Vice Chairman Grow** explained that the interest rate of the program would fluctuate with the interest rate of the Commission.

Senator Vick questioned how the State would recoup taxes paid through **H 309** should a foreclosed house sit on the market for multiple years. **Vice Chairman Grow** stated the Commission had assessed the risk at 75 to 80 percent of the investment. **Senator Rabe** asked for clarification regarding sufficient equity and the difference from the Property Tax Reduction (Circuit Breaker) program. **Vice Chairman Grow** responded that an unpaid mortgage, or even a second mortgage, would be eligible for the program, but the property taxes would only be paid up to 80 percent of the current year's market value. **Vice Chairman Grow** reiterated to the Committee his belief that homeowners who qualified for both the Circuit Breaker program and **H 309** could choose the program they preferred in which to participate. He believed most homeowners would choose the Circuit Breaker program.

Senator Bayer pointed out that the Circuit Breaker program had an income limit in which the homeowner could deduct a certain amount of medical expenses and other miscellaneous expenses to reduce their income. She questioned if **H 309** had such applicable deductions. **Vice Chairman Grow** related that **H 309** had no such deductions.

MOTION: **Senator Souza** moved to send **H 309** to the floor with a **do pass** recommendation. **Senator Ricks** seconded the motion.

SUBSTITUTE MOTION: **Senator Bayer** moved that **H 309** be held in Committee. The substitute motion failed for lack of a second.

DISCUSSION: **Senator Ricks** expressed his support of **H 309**. He stated the legislation could make it financially possible for an elderly couple or individual to stay in their home. **Senator Vick** cited his concern over using state tax dollars in competition with private industry with regard to reverse mortgages. **Senator Bayer** reiterated her opinion that **H 309** is not necessary and increases the financial burden on the State. She emphasized that county programs already in place should be the focus of property tax reduction programs..

Vice Chairman Grow pointed out that **H 309** is an enhancement of a program already available. He specified that with the Circuit Breaker Program, the State pays the property taxes outright. **H 309** allows an option that will help individuals who do not qualify for the Circuit Breaker Program without the cost to the State, as it is a loan with the opportunity for a return of payment.

VOICE VOTE: The motion to send **H 309** to the floor with a **do pass** recommendation carried by **voice vote**, with **Senators Bayer** and **Vick** requesting they be recorded as voting nay.

ADJOURNED: There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:46 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
1:30 P.M.
Room WW53
Thursday, April 08, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approve the Minutes of March 10, 2021	Senator Souza
Minutes	Approve the Minutes of March 11, 2021	Senator Ricks
Minutes	Approve the Minutes of March 17, 2021	Senator Bayer
Minutes	Approve the Minutes of March 18, 2021	Senator Nye
HCR 15	Authorizes the Legislative Council to Appoint a Legislative Interim Study Committee on Property Taxes and Revenue Expenditures	Representative Addis
H 332	To Revise Provisions Regarding Income Tax Rates and the Tax Relief Fund and to Provide for a Onetime Income Tax Rebate	Representative Harris

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice	Sen Bayer
Vice Chairman Grow	Sen Ricks
Sen Vick	Sen Nye
Sen Lakey	Sen Rabe
Sen Souza	

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, April 08, 2021

TIME: 1:30 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 1:31 p.m.

MINUTES APPROVAL: **Senator Souza** moved to approve the Minutes of March 10, 2021. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

Senator Ricks moved to approve the Minutes of March 11, 2021. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

Senator Bayer moved to approve the Minutes of March 17, 2021. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

Senator Nye moved to approve the Minutes of March 18, 2021. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

HCR 15 **Authorizes the Legislative Council to Appoint a Legislative Interim Study Committee on Property Taxes and Revenue Expenditures.** **Representative Jim Addis**, District 4, presented **HCR 15**, explaining that it would authorize the Legislative Council to appoint an interim committee to undertake, and complete, a study of property taxes and property tax revenue expenditures. **Representative Addis** reported that essentially, **HCR 15** would be a continuation of work started by the previous interim study committee. If **HCR 15** is authorized, he anticipates the committee to meet four or five times throughout the interim, continuing the discussion on topics from the last interim committee as well as other items that impact property taxes.

MOTION: **Vice Chairman Grow** moved to send **HCR 15** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

H 332 **To Revise Provisions Regarding Income Tax Rates and the Tax Relief Fund, and to Provide for a One-Time Income Tax Rebate.** **Representative Steve Harris**, District 21, presented **H 332**, explaining to the Committee that there are two separate components of the bill: tax relief and a tax rebate. **Representative Harris** informed the Committee that the funds used to provide the tax relief and rebate in **H 332** is money allocated in the Governor's budget in January. **H 332** reduces all income tax brackets, setting the top individual and corporate tax bracket to 6.5 percent, and provides Idaho taxpayers a one-time sales tax/income tax rebate. The rebate will be provided in the amount of \$50 per taxpayer or dependent, or 9 percent of income tax paid in 2019, whichever is greater. **Representative Harris** told the Committee that it is important taxpayers understand **H 332** is not a subsidy

or part of a COVID-19 relief package. It can be simply explained that the State took too much of the taxpayers' money and the State desires to return a portion of it.

- TESTIMONY:** **Kathy Dawes**, on behalf of Susan Ripley, President, League of Women Voters (League), testified in opposition to **H 332**. **Ms. Dawes** stated the League believes tax cuts and rebates are not appropriate at a time when Idaho's school districts depend on supplemental levies to maintain educational programs. **Ms. Dawes** informed the Committee that the League requests amending **H 332** by removing the section that reduces the personal income tax rates and provides rebates. She said those sections would result in insignificant relief for low-and middle-income taxpayers, and leave the corporate rate as is. This would maintain \$220 million of one-time money, plus \$110 million of ongoing money that could be added to public school budgets, she said.
- Miguel Legarreta**, Associated Taxpayers of Idaho, testified in support of **H 332**.
- Alex LeBeau**, Idaho Association of Commerce and Industry (Association), testified in support of **H 332**. **Mr. LeBeau** clarified that his organization supports **H 332**, even though the Association believes that amendments to the taxpayer brackets are necessary. **Mr. Lebeau** explained that the dollars returned to the taxpayers re-enter the economy, and the Association believes **H 332** to be good legislation for Idaho's economy.
- DISCUSSION:** **Senator Rabe** questioned if the one-time tax rebates are possible because of ongoing state funding or because federal funds are replacing state money that would otherwise be spent. **Representative Harris** replied that he believes some of the sales tax increases are from federal money being spent. However, he does not believe that has an affect on income taxes.
- MOTION:** **Senator Bayer** moved to send **H 332** to the 14th Order of Business for possible amendment. **Senator Vick** seconded the motion.
- DISCUSSION:** **Senator Lakey** indicated his support for **H 332**, while agreeing that the amendments are necessary. **Senator Lakey** expressed his concern that the compromise included the sunset on H 259 (2019), commonly referred to as the Wayfair bill. He believes that sunset should remain in place and allow sales tax to be treated as sales tax. **Senator Vick** stated his interest in reducing the number of income tax brackets, and perhaps include that in the amendments.
- SUBSTITUTE MOTION:** **Senator Nye** moved to hold **H 332** in Committee, subject to call of the Chair. The motion died for lack of a second.
- VOICE VOTE:** The motion to send **H 332** to the 14th Order of Business for possible amendment carried by **voice vote**.
- ADJOURNED:** There being no further business at this time, **Chairman Rice** adjourned the meeting at 2:20 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
1:00 P.M.
Room WW53
Monday, April 26, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
<u>H 380</u>	To Revise Provisions Regarding Income Taxes and the Tax Relief Fund, and to Establish the 2021 Idaho Tax Rebate Fund	Representative Harris

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice	Sen Bayer
Vice Chairman Grow	Sen Ricks
Sen Vick	Sen Nye
Sen Lakey	Sen Rabe
Sen Souza	

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Monday, April 26, 2021

TIME: 1:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Hogaboam (Lakey), Funk (Souza), Bayer, Ricks, Nye, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 1:14 p.m.

H 380 **To Revise Provisions Regarding Income Taxes and the Tax Relief Fund, and to Establish the 2021 Idaho Tax Rebate Fund. Representative Steve Harris**, District 21, presented **H 380**, explaining to the Committee that it was a rewrite of **H 332**. **H 380** corrects mathematical errors, reduces Idaho's seven income tax brackets to five brackets, and clarifies that \$180 million of the \$220 million for tax rebates will come from the Tax Relief Fund. **Representative Harris** informed them it also retains the sunset clause for the Tax Relief Fund, enabling funds to flow normally to general funds after 2024.

DISCUSSION: **Senator Bayer** questioned if the \$220 million distribution figure was adequate to fund the tax rebates. **Representative Harris** replied that was the reason for the language used in **H 380**, specifically stating "up to" \$220 million. **Senator Rabe** requested clarification on the tax brackets that had been removed in **H 380**. **Representative Harris** explained that the second and third tax brackets had been combined, as well as the sixth and seventh brackets. **Senator Rabe** asked if the sixth and seventh tax brackets when combined was Idaho's highest tax bracket. **Representative Harris** replied that it was. **Senator Rabe** questioned how much of the fiscal note listed in **H 380** is from combining the top two tax brackets. **Representative Harris** informed her that the second and third tax brackets combined does not have any substantial fiscal impact, but the savings to the State combining the sixth and seventh tax brackets is approximately \$6 million.

Senator Nye questioned if proper public notice of the meeting was given. **Chairman Rice** assured him it had been published within the rules of the Senate. **Senator Nye** asked Representative Harris if he had any legal opinions from the Attorney General's Office regarding **H 380**. **Representative Harris** replied that he did not.

Senator Hogaboam requested more information regarding the Tax Relief Fund. **Representative Harris** explained that the \$180 million available in the Tax Relief Fund was accumulated over a period of time. Once the \$180 million is distributed, the ongoing tax relief amount would be \$110 million.

TESTIMONY: **Fred Birnbaum**, representing the Idaho Freedom Foundation, testified in support of **H 380**. **Mr. Birnbaum** addressed several objections against **H 380**, one being that the money should be spent on education. He pointed out that Idaho shows no correlation between per pupil spending and test results. **Mr. Birnbaum** also stated that the objection that **H 380** favors the rich is not valid, as even if an Idaho resident paid zero taxes they will receive a benefit.

MOTION: **Senator Vick** moved to send **H 380** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion.

DISCUSSION: **Senator Nye** requested the Chairman and Committee extend the hearing for two legislative days. **Chairman Rice** denied the request. **Senator Nye** related that he wished the record to reflect he had received notice of the meeting at 9:30 a.m.

Senator Rabe informed the Committee members she would be voting against **H 380**. She related that her constituents were not asking for income tax relief, and believes the tax dollars should be redirected.

Vice Chairman Grow explained that the issue is Idaho has excessive revenue generated by income tax, and that issue has nothing to do with property tax. The State has over-collected and **H 380** seeks to reduce the brackets and make refunds. **Vice Chairman Grow** clarified tax policy is the work of this Committee, and education policy should be handled by the germane committee.

VOICE VOTE: The motion to send **H 380** to the floor with a **do pass** recommendation carried by **voice vote** with **Senators Nye** and **Rabe** voting nay.

ADJOURNED: There being no further business at this time, **Chairman Rice** adjourned the meeting at 1:52 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, May 04, 2021

Limited public seating will be available in the committee room. For members of the public to observe the meeting, please click on the following link:

<https://www.idahoptv.org/shows/idahoinsession/>

SUBJECT	DESCRIPTION	PRESENTER
<u>H 389</u>	To Revise Provisions Regarding the Homeowner's Exemption, the Circuit Breaker Tax Reduction, the Disabled Veteran's Tax Reduction, the Property Tax Deferral Program, and the Taxation of Personal Property	Representative Moyle
<u>H 390</u>	To Revise Provisions Regarding Taxable Income and the State Tax Commission	Representative Manwaring
Minutes	Approve the Minutes of April 26, 2021	Senator Vick
NOTE: Based upon the Tuesday morning Senate session, referral is pursuant to Senate Rule 14(B)		

Public Testimony Will Be Taken by Registering Through the Following Link:
[Registry to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Rice
Vice Chairman Grow
Sen Vick
Sen Lakey
Sen Funk(Souza)

Sen Bayer
Sen Ricks
Sen Nye
Sen Reider(Rabe)

COMMITTEE SECRETARY

Machele Hamilton
Room: WW50
Phone: 332-1315
Email: sloc@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, May 04, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Funk (Souza), Bayer, Ricks, Nye, and Reider (Rabe)

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:10 p.m.

H 389 **To Revise Provisions Regarding the Homeowner's Exemption, the Circuit Breaker Tax Reduction, the Disabled Veteran's Tax Reduction, the Property Tax Deferral Program, and the Taxation of Personal Property.** **Representative Mike Moyle**, District 14, presented **H 389**, relating to the Committee that it was a composite of several tax bills that had come before the Legislature this Session. He explained that it had been put together by several counties and associations, as well as legislators. **H 389** will raise the homeowner's exemption to \$125,000, and authorize each taxing district to reduce its new construction roll by the amount of the homeowner's exemptions above \$100,000. **Representative Moyle** explained that **H 389** will increase the Circuit Breaker Program property tax break for seniors to \$1,500. It will limit local government budgets to 90 percent of new construction and annexation, while placing an 8 percent cap on local government property tax budget growth, as well as limiting the use of foregone property tax revenue. **Representative Moyle** stated that **H 389** will increase the personal property exemption for businesses to \$250,000, while fully exempting defined transient personal property.

DISCUSSION: **Chairman Rice** clarified that **H 389** would not affect the Nampa Fire District annexation. The State Tax Commission (Commission) has stated that the annexation area will not be affected by the 8 percent cap. **Chairman Rice** has requested the opinion in writing.

TESTIMONY: The following individuals testified in opposition to **H 389**: **John Evans**, Mayor, Garden City, stated that a tax bill without budget cap issues had been expected, and without the indexing of personal property. **David "Rudy" Rudebaugh**, Legislative Chairman, Idaho State Fire Commissioners' Association, testifying virtually, explained to the Committee that Idaho has 158 fire districts. The districts are funded by property taxes and new construction. **Mr. Rudebaugh** believes **H 389** will be detrimental to life and property. **Francoise Cleveland**, Associate State Director of Advocacy, Idaho Chapter of the American Association of Retired Persons, testified virtually, representing 185,000 members. **Ms. Cleveland** stated that property tax continues to be the most burdensome tax for low-income and older residents, and requested that **H 389** be amended to include an appeals process for those removed from the Circuit Breaker Program. **Mark Niemeyer**, Idaho Fire Chiefs Association, expressed concern for unintended consequences resulting from the implementation of **H 389**. He explained that revenue and growth are required to staff firehouses.

Seth Grigg, representing Idaho Association of Counties, testified in support of **H 389**. He expressed the desire that both the homeowner's exemption and the Circuit Breaker Program threshold be increased, but agreed that it was a fair starting point in property tax reform.

DISCUSSION: **Senator Reider** questioned Mr. Grigg if homeowners in high-growth areas would see their taxes go down with the passing of **H 389**. **Mr. Grigg** replied that even with a tax freeze, property taxes would not be reduced, but it would slow the rate of increase.

Richard Davies, Nampa Fire Protection District, informed the Committee members he was requesting an amendment to **H 389**, making it possible for other fire protection districts to annex city fire districts. **Kirk Carpenter**, Nampa Fire Chief, expressed his support for the amendment. **Chairman Rice** responded that the annexation referred to in a proposed amendment may not work in all areas of the State and should be addressed in separate legislation.

Senator Vick expressed his frustration that the portion of his property taxes dedicated to the fire district had gone from \$150 to \$500 in 9 years. He stated it is hard to be sympathetic when fire districts complain about limiting their growth, while watching his taxes increase that much for fire districts.

TESTIMONY: **Max Pond**, Idaho Association of Realtors, testified in support of **H 389**.

DISCUSSION: **Representative Moyle** completed his presentation of **H 389** by stating it makes some simple changes that will help slow the tax shift that is happening. He recognizes it is a starting point, with much more to be done. **Senator Nye** questioned if the Commission was involved in the implementation of **H 389**, or if the Attorney General's Office had given an opinion. **Representative Moyle** responded that it had not been necessary to consult the Attorney General and the Commission was satisfied with the bill. **Representative Moyle** opined that any changes should be made through a trailer bill rather than an amendment. **Senator Reider** questioned how many people would be disqualified from the Circuit Breaker Program if **H 389** was implemented. **Representative Moyle** responded that this year, no one would be disqualified. The following year, without addressing the 125 percent of median, there would be an approximate 15 percent reduction if **H 389** passes. **Senator Reider** requested the average value of the 125 percent of median across Idaho. **Representative Moyle** stated it varied too much by county to identify.

MOTION: **Senator Bayer** moved to send **H 389** to the floor with a **do pass** recommendation. **Vice Chairman Grow** seconded the motion.

DISCUSSION: **Senator Bayer** stated she would like to see more property tax relief, but would support **H 389**. **Vice Chairman Grow** related to the Committee that there were two ways to deal with the property tax issue, to shift between homeowners or reduce budgets. He informed them **H 389** was not rushed legislation, it had been worked on all session.

VOICE VOTE: The motion to send **H 389** to the floor with a **do pass** recommendation carried by **voice vote** with **Senators Lakey, Nye**, and **Reider** requesting they be recorded as voting nay.

H 390 **To Revise Provisions Regarding Taxable Income and the State Tax Commission.** **Representative Dustin Manwaring**, District 29, presented **H 390**, informing the Committee that it was a trailer bill to **H 251**. He explained that it clarifies that any federal relief money paid directly to a tenant and used for rent or utility payments is not taxable. The payments remain taxable to the landlord. **H 390** also clarifies language in **H 214**.

MOTION: **Senator Ricks** moved to send **H 390** to the floor with a **do pass** recommendation. **Senator Nye** seconded the motion. The motion carried by **voice vote**.

**MINUTES
APPROVAL:**

Senator Vick moved to approve the Minutes of April 26, 2021. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business at this time, **Chairman Rice** adjourned the meeting at 4:01 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary